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20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
21 **IN AND FOR THE COUNTY OF SAN MATEO**

22 NORTHERN CALIFORNIA PIPE TRADES
23 PENSION PLAN and
24 TEAMSTERS LOCAL 272 LABOR
25 MANAGEMENT PENSION FUND,

26 Plaintiffs,

27 vs.

28 ✓ JOHN L. HENNESSEY;
29 L. JOHN DOERR;
30 ALAN R. MULALLY;
31 KAVITARK RAM SHRIRAM;
32 LAWRENCE E. PAGE;
33 SERGEY BRIN;
34 ANN MATHER;
35 DIANE B. GREENE;
36 ROGER W. FERGUSON, JR.;
37 SUNDAR PICHAI; and
38 ERIC EMERSON SCHMIDT,

Defendants,

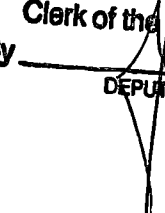
and

ALPHABET, INC.

Nominal Defendant.

FILED
SAN MATEO COUNTY

JAN 09 2019

Clerk of the Superior Court
By  DEPUTY CLERK

BY FAX

Case No. **19CIV00149**

**VERIFIED
STOCKHOLDER DERIVATIVE
COMPLAINT FOR:**

**(1) BREACH OF FIDUCIARY DUTY;
(2) UNJUST ENRICHMENT; and
(3) CORPORATE WASTE**

JURY TRIAL DEMANDED

19 - CIV - 00149
CMP
Complaint
1586474



VERIFIED STOCKHOLDER DERIVATIVE COMPLAINT

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1 Plaintiffs Northern California Pipe Trades Pension Plan ("NCPTPP") and Teamsters Local
2 272 Labor Management Pension Fund ("Local 272") bring this shareholder derivative action on
3 behalf of nominal defendant Alphabet, Inc. ("Alphabet," "Google," or the "Company"¹) against
4 certain current officers and directors of the Company for breaches of fiduciary duty and a "culture
5 of concealment" that led Defendants, in pursuit of their own interests, to participate or acquiesce in
6 the cover-ups of a long-standing pattern of sexual harassment and discrimination by high-powered
7 male executives as well as a serious data breach, both of which were in violation of state and federal
8 law.

9 Plaintiffs make these allegations upon personal knowledge as to their own actions and, as to
10 all other matters, upon the investigation of their undersigned counsel which included, among other
11 things, (1) review and analysis of Alphabet's public filings with the U.S. Securities and Exchange
12 Commission ("SEC"); (2) a review of press releases, news articles, and other public statements
13 issued by or concerning Alphabet and the Individual Defendants named herein; and (3) a review of
14 court records, including, but not limited to pleadings filed in *Ellis v. Google, LLC*, No. CGC-17-
15 561299 (Cal. Sup. Ct. San Francisco Cty.); *Wicks v. Alphabet, Inc.*, No. 3:18-cv-6245 (N.D. Cal.);
16 *El Mawardy v. Alphabet, Inc.*, No. 1:18-cv-5704 (E.D.N.Y.); *Matic v. Google, LLC*, No. 5:18-
17 cv6164 (N.D. Cal.); *Patacsil v. Google, LLC*, No. 5:18-cv-5062-EJD (N.D. Cal.); *Lee v. Google,*
18 *Inc.*, Case No. 18-cv-323651 (Cal. Super. Ct. Santa Clara Cty.); and *Office of Federal Contract*
19 *Compliance Programs, U.S. Dep't of Labor v. Google, Inc.*, ALJ Case No. 2017-OFC-08004,
20 ("DOL"). On behalf of themselves and the stockholders they seek to represent, Plaintiffs allege as
21 follows:

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27 ¹ On August 10, 2015, Google announced plans to restructure its subsidiaries into holding company
28 Alphabet, Inc. Certain of the events discussed herein occurred prior to the name change.
Accordingly, Alphabet, Google and the Company are used interchangeably.

1 **I. INTRODUCTION**

2 1. This is a stockholder derivative action brought on behalf of Nominal Defendant
3 Alphabet, alleging breaches of fiduciary duty by the Company's Board² occurring from at least 2014
4 through the present (the "Relevant Period"), based on a pattern of concealment intended to protect
5 the interests of the Company's top earning executives and the Board at the expense of its
6 shareholders, employees, and users. It has recently come to light that, in at least two areas of its
7 responsibility—employment policies and data privacy, the Board knowingly participated in or
8 acquiesced to conduct by the Company's senior executives that caused the Company to violate
9 various laws. In both areas, the Board knew of the implications of its actions, or failure to act because
10 similar conduct had already drawn regulatory scrutiny, lawsuits, and public criticism. As a result of
11 both the underlying misconduct and the cover-ups, stockholders and the Company have been
12 damaged in number of ways. Defendants' conduct has already cost the Company hundreds of
13 millions of dollars in generous exit packages to wrongdoers and exposed it to further litigation and
14 a loss of federal contracts over its hostile and discriminatory workplace. Further, as studies have
15 shown, such a toxic work environment can impact a Company's ability to hire and retain top talent.
16 Defendants' misconduct in the data privacy arena has also led to a loss of user trust and goodwill
17 that is essential to any data-driven company, and exposed the Company to potential loss of business,
18 political repercussions, and the related costs of defending claims and investigations by a rising
19 number of government agencies.

20 2. Alphabet was incorporated in 2015 and is the parent company of its leading
21 subsidiary Google Inc., among others. Google was founded in 1998. Alphabet and Google are
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24 ² The current directors are: Chairman John L. Hennessey ("Hennessey"); L. John Doerr ("Doerr");
25 Alan R. Mulally ("Mulally"); Kavita Ram Shriram ("Shriram"); Lawrence E. Page ("Page");
26 Sergey Brin ("Brin"); Ann Mather ("Mather"); Diane B. Greene ("Greene"); Roger W. Ferguson,
27 Jr. ("Ferguson"); Sundar Pichai ("Pichai"); and Eric Emerson Schmidt ("Schmidt"). Page is
28 Alphabet's Chief Executive Officer ("CEO") and a co-founder of the Company. Brin is Alphabet's
President and the other co-founder of the Company. Pichai, Greene, and Schmidt serve as Google
CEO, Google Cloud CEO, and Technical Advisor, respectively. These individuals are collectively
referred to as the "Board" or the "Individual Defendants," and, together with the Company, referred
to as "Defendants."

1 headquartered in Mountain View, California. The Company's common stock trades on the
2 NASDAQ Global Select Market ("NASDAQ") under the ticker symbol "GOOGL," which
3 represents Class A shares, and "GOOG," which represents non-voting Class C shares. The Company
4 also offers Class B shares with 10:1 voting power, which do not trade.

5 3. Alphabet is a male-dominated company with a male-dominated culture, like the tech
6 industry at large. Numerous critics have argued over the years that the gender imbalance in the tech
7 industry is not just the result of a "pipeline" problem: persistent sexism and discrimination have
8 kept women out, held them back and, ultimately, forced them to leave the industry altogether.³

9 4. Alphabet's leadership in the tech industry regrettably also includes leadership in a
10 culture that limits opportunities for women. Recent complaints about the Company demonstrate
11 that, for years, Alphabet's management has fostered a "brogrammer" culture, where women are
12 sexually harassed and valued less than their male counterparts. Reports indicate that the Company's
13 procedures for investigating complaints about sexual harassment and discrimination were grossly
14 inadequate. For instance, current and former employees told *The New York Times* (the "Times" or
15 the "NYT") that "complainants are often not told about the details of subsequent investigations."⁴
16 And, Alphabet's former policy of forcing sexual harassment claims against the Company into
17 arbitration, helped to keep formal challenges to those policies out of the public eye.

18 5. Alphabet has also struggled with other indicators of sex discrimination in its
19 workplace. A class action filed in the Superior Court of San Francisco on behalf of female Google
20 employees employed in California, where the Company has its headquarters, asserts that the
21 Company persistently discriminates against women by, among other things, assigning them to jobs
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24 ³ David Goldman, *Few Female Engineers and Execs at Google*, CNN Business, May 30, 2014,
25 <https://money.cnn.com/2014/05/29/technology/google-women/index.html>. See also Liza Mundy,
26 *Why is Silicon Valley So Awful to Women?*, The Atlantic, Apr. 2017,
<https://www.theatlantic.com/magazine/archive/2017/04/why-is-silicon-valley-so-awful-to-women/517788/>.

27 ⁴ Kate Conger & Daisuke Wakabayashi, *Google Overhauls Sexual Misconduct Policy After*
28 *Employee Walkout*, The New York Times, Nov. 8, 2018,
<https://www.nytimes.com/2018/11/08/technology/google-arbitration-sexual-harassment.html>.

1 in lower compensation “bands” than similarly situated men, promoting women more slowly and at
2 lower rates than similarly situated men, and simply paying women less. On March 27, 2018, the
3 Court found that the plaintiffs alleged sufficient facts to state a claim for intentional discrimination.⁵

4 6. The *Ellis* class action lawsuit was filed following news of a 2015 audit of Google’s
5 headquarters by the Department of Labor, which similarly revealed “systemic compensation
6 disparities against women pretty much across the entire workforce.”⁶ While the investigation is still
7 ongoing, Alphabet has been aggressive in resisting some of the agency’s requests for information
8 and has also sought to restrict media access to the proceedings.⁷

9 7. Accordingly, Alphabet was already facing scrutiny regarding its treatment of women
10 and its procedures for addressing sex discrimination when, on October 25, 2018, the *NYT* published
11 an article exposing Alphabet’s concealment of its payouts to high-level male executives who had
12 been credibly accused of sexual harassment. The *NYT* article focused on the Company’s active
13 concealment of the sexual misconduct of several high-profile executives. Although Alphabet asked
14 two of the executives to leave after finding the allegations against them to be credible, neither was
15 fired for cause: instead, each man received significant and wasteful exit packages worth millions
16 while the Board and management hid the true reasons underlying their departure.⁸ Following the
17 *Times* article, the Company disclosed that an additional 48 cases of sexual harassment had been
18 reported over the past two years alone, including thirteen complaints against senior managers or
19 executives.⁹

21 ⁵ *Ellis v. Google, LLC*, No. CGC-17-561299 (Cal. Sup. Ct. San Francisco Cty.).

22 ⁶ U.S. Department of Labor (“DOL”) Recommended Decision and Order dated Jul. 14, 2017, at p. 9.

23 ⁷ Sam Levin, *Revealed: Google Tried to Block Media Coverage of Gender Discrimination Case*,
24 The Guardian, May 22, 2017, <https://www.theguardian.com/technology/2017/may/22/google-gender-discrimination-case-reporting-restricted>.

25 ⁸ Daisuke Wakabayashi & Katie Benner, *How Google Protected Andy Rubin, the ‘Father of Android’*,
26 The New York Times, Oct. 25, 2018, <https://www.nytimes.com/2018/10/25/technology/google-sexual-harassment-andy-rubin.html>.

27 ⁹ *Id.*; see also *Google Reveals 48 Employees Fired for Sexual Harassment*, The Associated Press,
28 Oct. 25, 2018, <https://www.apnews.com/06bbde4e7ba449089a62d8d351ecbe8c>. The Company stated it did not provide an exit package to those individuals, but did not provide additional details.

1 8. The practices described in the *NYT* article—which epitomize the Company’s cultural
2 complacency concerning credible accounts of unlawful sex-discrimination—prompted immediate
3 employee outrage. But instead of acting quickly to respond to employees’ concerns, Alphabet
4 management’s “dismissive” response sparked a historic reaction:¹⁰ on November 1, 2018, 20,000
5 Alphabet employees around the globe staged a “Google Walkout” to protest the events described in
6 the article as well as the Company’s generally inadequate approach to sexual harassment and
7 discrimination in its workforce.

8 9. Since the Walkout, and under significant public pressure, Defendants have taken
9 small steps to address their previous failures. But, as described below, these belated, reactive
10 actions—which apply only prospectively—are insufficient to remedy the harms that have already
11 been done, or to address the systemic, cultural problems the Board has long permitted to fester at
12 Alphabet.

13 10. And, sexual harassment isn’t the only problem Alphabet’s leaders have actively
14 swept under the rug. Three weeks before the *NYT* issued its report, an explosive article published
15 on October 8, 2018 in *The Wall Street Journal* (“*WSJ*”), revealed a data privacy breach that exposed
16 the personal data of half a million users of Google+, a social networking website operated by the
17 Company, to unauthorized access.¹¹ Although the breach was discovered and remedied by the
18 Company in March 2018, Alphabet chose not to alert Google+ users that their data was exposed to
19 unauthorized app developers. As detailed by the *WSJ*, an internal Alphabet memo “shared with
20 senior executives,” including Defendant Pichai, “warned that disclosing the incident would likely
21 trigger ‘immediate regulatory interest.’” Thus, in order to avoid regulatory and public scrutiny,
22 Defendants hid the breach from the public and from Alphabet shareholders.

25 ¹⁰ Isobel Asher Hamilton, *A Googler Vividly Described the ‘Disastrous’ Leadership Meeting that*
26 *Sparked a Giant Protest Over Sexual Misconduct*, Business Insider, Nov. 21, 2018,
[https://www.businessinsider.in/a-googler-vividly-described-the-disastrous-leadership-meeting-
that-sparked-a-giant-protest-over-sexual-misconduct/articleshow/66738768.cms](https://www.businessinsider.in/a-googler-vividly-described-the-disastrous-leadership-meeting-that-sparked-a-giant-protest-over-sexual-misconduct/articleshow/66738768.cms).

27 ¹¹ Douglas MacMillan & Robert MacMillan, *Google Exposed User Data, Feared Repercussions of*
28 *Disclosing to Public*, The Wall Street Journal, Oct. 8, 2018, [https://www.wsj.com/articles/google-
exposed-user-data-feared-repercussions-of-disclosing-to-public-1539017194](https://www.wsj.com/articles/google-exposed-user-data-feared-repercussions-of-disclosing-to-public-1539017194).

1 11. The Board was well-aware of the consequences of failing to disclose the Google+
2 breach—indeed, this was the Company’s fourth major set of misrepresentations on data privacy in
3 the past eight years. In 2011, Alphabet entered into a consent decree (the “Consent Decree”) with
4 the Federal Trade Commission (“FTC”) after Alphabet made misrepresentations concerning the
5 launch of a social networking tool. In 2012, the FTC fined the Company \$22.5 million for violating
6 the Consent Decree by misrepresenting its use of cookies. And just a few months before the Google+
7 revelation, in August 2018, the *Associated Press* (“AP”) published a report revealing that Google
8 had provided misleading information regarding how and whether users of its mobile devices and
9 apps could turn off location tracking, and when and how the Company deceptively permitted
10 location data to be stored and used, prompting criticism from federal lawmakers and a class action
11 consumer protection suit. *See Patacsil v. Google, LLC*, No. 5:18-cv-5062-EJD (N.D. Cal.).

12 12. Following the *WSJ*’s revelation of the Google+ breach, several United States
13 Senators expressed their concerns in a letter to Defendant Pichai and asked the FTC to investigate
14 “whether the Google+ incident constitutes a breach of the company’s consent decree or other
15 commitments, and more broadly whether Google has engaged in deceptive acts and practices with
16 respect to privacy.” International Regulators, including authorities in Germany and Ireland, as well
17 as the Attorneys General for the States of New York and Connecticut are also investigating the
18 breach. And shareholders have filed securities fraud claims, alleging that the Company’s
19 concealment of the Google+ breach violated federal securities laws. *See Wicks v. Alphabet, Inc.*,
20 No. 3:18-cv-6245 (N.D. Cal.); *El Mawardy v. Alphabet, Inc.*, No. 1:18-cv-5704 (E.D.N.Y.).

21 13. In their letter urging the FTC to investigate the circumstances of the Google+ breach,
22 one group of Senators aptly characterized the fundamental problem that created both instances of
23 misconduct described in this complaint: “The awareness and approval by Google management not
24 to disclose represents **a culture of concealment and opacity set from the top of the company.**”¹²

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28 ¹² Letter from Senators Richard Blumenthal, Edward J. Markey & Tom Udall, United States Senate,
to The Honorable Joseph Simons, Chairman of the Federal Trade Commission (Oct. 10, 2018).

1 14. Defendants' active participation in that culture—which allowed them to prioritize
2 their own interests, and those of the Company's powerful male executives, over their legal
3 obligations—caused the Company significant harm. Revelations of the Defendants' misconduct led
4 the Company's stock price to immediately drop approximately 6% in response to the *WSJ* article
5 followed by another immediate 7% decline in response to the *Times* article; prompted lawmaker
6 scrutiny, regulatory investigations, and shareholder, consumer, and employee lawsuits; and has
7 drawn massive outrage from the Company's valuable employees. The Board's misconduct will
8 continue to result in the loss of business and goodwill, both as a result of the negative publicity
9 around these incidents, and the increasing loss of trust in the Google brand.

10 15. Demand is excused in this Action for three reasons:

11 a. *First*, the entire Board, including its controlling stockholders Page and Brin,
12 face a substantial likelihood of liability for breaches of the fiduciary duties owed to the Company
13 as a result of his or her participation or acquiescence in these matters. For instance, each of the
14 eleven Individual Defendants in this action was on the Board in March 2018, when the Company
15 chose to conceal the Google+ breach, and nine were on the Board in October 2014, when Rubin
16 first received his payout. Defendants cannot impartially evaluate a request to sue themselves.

17 b. *Second*, at least seven Defendants—a majority of the current Board—are not
18 independent because of their extensive financial ties to the Company, its controlling stockholders,
19 and each other. Five directors serve as officers in the Company and are therefore not independent
20 by the Company's own admission. And Defendants Doerr and Shriram, two of the so-called
21 "independent" directors and the remaining members of the Board committee that approved the
22 severance payments, have both served on the Board for close to twenty years. Moreover, both men
23 are associated with venture capital funds that were early investors in Google and have close, ongoing
24 financial ties with Alphabet and its leadership. Doerr and Shriram have benefitted enormously from
25 transactions the Company has entered into with their firms during the two decades they spent on the
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1 Board, leading the proxy firm, Institutional Shareholder Services (“ISS”), to repeatedly question
2 their performance and independence even before the events in this case.¹³

3 c. *Third*, demand is excused because all of the Individual Defendants are
4 beholden to Defendants Page, Brin, and Schmidt for their lucrative and prestigious positions at the
5 Company and on its Board, and serve at their sole discretion. Alphabet is controlled by Page and
6 Brin, who jointly retain 51% of its voting power. Schmidt controls an additional 5.6% of the
7 Company’s voting power. The Company admits in its SEC filings that those three men effectively
8 control the election of all members of the Board.¹⁴ Thus, those three men are clearly capable of
9 dismissing any Board member who voted to initiate a lawsuit against them or their wishes. Coupled
10 with the fact that Page, Brin, and numerous members of their Company’s leadership are personally
11 implicated in engaging in inappropriate workplace conduct, rewarding abusers, and improperly
12 concealing information from regulators, as controlling shareholders, they can and will block any
13 serious efforts to hold the Individual Defendants accountable for their conduct.

14 16. Plaintiffs therefore bring this shareholder derivative action to recover damages,
15 disgorgement, injunctive relief, including corporate governance reforms, and other relief on behalf
16 of Nominal Defendant Alphabet and against the Individual Defendants for breaches of fiduciary
17 duties related to the action and inactions detailed herein that ultimately caused, and continue to
18 cause, the Company substantial harm. Absent the relief sought herein, this harm will go unaddressed
19 and the damage to the Company will continue.

20 **II. JURISDICTION AND VENUE**

21 17. This Court has jurisdiction over this action pursuant to the California Constitution,
22 Art. VI, § 10, because this case is a cause not given by statute to other trial courts, as this derivative
23 action is brought pursuant to § 800 of the California Corporation’s Code to remedy Defendants’
24 breaches of fiduciary duties.

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27 ¹³ Andrew Countryman, *Google’s Governance Below Par, Service Says*, The Chicago Tribune, Aug.
24, 2004, at 3-1 and 3-4.

28 ¹⁴ Alphabet, Inc., Annual Report (Form 10-K) (Feb. 18, 2018).

1 18. Venue is proper in this Court because certain of the Individual Defendants, including
2 Defendants Schmidt, Hennessy, Doerr, Ferguson, and Shriram reside in San Mateo County, and the
3 Company maintains an office in San Mateo County where some of the wrongs described in this
4 Complaint took place.

5 **III. PARTIES**

6 **A. Plaintiffs**

7 19. Plaintiff Northern California Pipe Trades Pension Plan is a pension fund for members
8 of United Association Local Union 342, which represents over 3,000 workers in the pipe trades
9 industries in Northern California, as along with the members of participating employer associations
10 in the plumbing and pipefitting industry. NCPTPP's offices are located at 935 Detroit Avenue, Suite
11 242A, Concord, California.

12 20. NCPTPP has held stock in Alphabet—including Class A and Class C stock—or in
13 its predecessor, Google, at all relevant times.

14 21. Plaintiff Teamsters Local 272 Labor Management Pension Fund is a pension fund
15 for members of Teamsters Local 272, which represents over 7,000 workers in parking garages
16 within the New York City region. Local 272's offices are located at 220 East 23rd Street, New York,
17 New York.

18 22. Local 272 has held stock in Alphabet—including Class A and Class C stock—or in
19 its predecessor, Google, at all relevant times.

20 **B. Defendants**

21 23. Nominal Defendant: Nominal Defendant Alphabet, Inc. is a Delaware corporation
22 with corporate headquarters in Mountain View, California. The Company also has an office in San
23 Bruno, in San Mateo County.

24 24. On August 10, 2015, Google announced plans to restructure its subsidiaries into
25 holding company Alphabet, Inc. Alphabet became the parent company of Google as well as
26 Google's prior subsidiaries.

1 25. The Company has three classes of stock: Class A common stock, which carries one
2 vote per share; Class B common stock, which carries ten votes per share; and Class C common
3 stock, which has no voting rights. This unusual capital structure makes it easier for the Company's
4 co-founders, Defendants Page and Brin, to retain their control over the Company while cashing out
5 their stock. As a result, Defendants Page and Brin currently hold 13% of the equity in the Company,
6 but control 51% of its voting power. The Company's stock trades on the NASDAQ Global Select
7 Market ("NASDAQ") under the ticker symbol "GOOGL," which represents Class A shares, and
8 "GOOG," which represents non-voting Class C shares. Class B shares do not trade.

9 26. Alphabet operates in numerous markets around the globe. Of relevance here,
10 Alphabet's largest and most well-known subsidiary, Google, operates a social networking website
11 called "Google+" that allows people to communicate with their family, friends, and coworkers.
12 Google+ users ostensibly have the ability to share and restrict the sharing of personal information
13 according to their preferences by changing privacy settings.

14 27. Alphabet also has two subsidiaries that operate as investment funds: GV (also known
15 as Google Ventures), and CapitalG.

16 28. Lawrence E. Page: Defendant Page is a resident of Santa Clara County. He co-
17 founded Google and, together with Defendant Brin, controls 51% of Alphabet's voting power. Page
18 has held a number of leadership roles at the Company. Page served as Google's CEO from 2011
19 through 2015, and has served as the CEO of Alphabet since the Company was reorganized in 2015.
20 He has also been a member of the Company's Board since its inception in 1998.

21 29. Page received a nominal salary of \$1 from the Company for each year from 2014
22 through the present. His functional salary appears to derive from monthly sales of Company stock.

23 30. As indicated in Alphabet's most recent proxy, dated April 27, 2018, Page does not
24 qualify as an independent director under the laws and regulations of the SEC and the listing
25 guidelines set forth by NASDAQ.

26 31. As an Officer of the Company and a member of its Board, Page has the duties
27 enumerated below in Sections V.A–D.

1 32. Sergey Brin: Defendant Brin is a resident of Santa Clara County. He co-founded
2 Google and, together with Page, controls 51% of Alphabet's voting power. Brin has held a
3 leadership position in the Company since its founding, and has served as the President of Alphabet
4 since it was formed. He has also been a member of the Company's Board since its inception in 1998.

5 33. Brin received a nominal salary of \$1 from the Company for each year from 2014
6 through the present. His functional salary appears to derive from monthly sales of Company stock.

7 34. As indicated in Alphabet's most recent proxy, dated April 27, 2018, Brin does not
8 qualify as an independent director under the laws and regulations of the SEC and the listing
9 guidelines set forth by NASDAQ.

10 35. As an Officer of the Company and a member of its Board, Brin has the duties
11 enumerated below in Sections V.A–D.

12 36. Eric Emerson Schmidt: Defendant Schmidt is a resident of San Mateo County.
13 Schmidt currently serves as Alphabet's "Technical Advisor" and controls 5.6% of the Company's
14 voting power. Brin and Page handpicked Schmidt to serve as the Company's CEO from July 2001
15 through April 2011, and as a member of the Company's Board since March 2001.

16 37. According to public SEC filings, in 2014, Schmidt received \$108,690,772 in total
17 compensation from the Company. In 2015, he received \$8,038,178. In 2016, he received
18 \$4,309,791. In 2017, he received \$4,726,592.

19 38. As indicated in Alphabet's most recent proxy, dated April 27, 2018, Schmidt does
20 not qualify as an independent director under the laws and regulations of the SEC and the listing
21 guidelines set forth by NASDAQ.

22 39. As a member of the Company's Board, Schmidt has the duties enumerated below in
23 Sections V.A–D.

24 40. Sundar Pichai: Defendant Pichai is a resident of Santa Clara County. Pichai joined
25 Google in 2004 and has held various leadership positions in the Company. He currently serves as
26 Google's CEO, a role he has held since October 2015, at which time Google had been restructured
27 into a subsidiary of Alphabet. Pichai has also been a member of the Company's Board since July
28 2017.

1 41. According to public SEC filings, in 2015, Pichai received \$100,632,102 in total
2 compensation from the Company.¹⁵ In 2016, he received \$199,718,200. In 2017, he received
3 \$1,333,557.

4 42. As indicated in Alphabet's most recent proxy, dated April 27, 2018, Pichai does not
5 qualify as an independent director under the laws and regulations of the SEC and the listing
6 guidelines set forth by NASDAQ.

7 43. As a member of the Company's Board, Pichai has the duties enumerated below in
8 Sections V.A–D.

9 44. John L. Hennessy: Defendant Hennessy is a resident of San Mateo County. He has
10 served as a member of the Company's Board since Google first went public in April 2004, and as
11 Chairman of the Board of Directors since January 2018. Hennessy is also the sole member of the
12 Board's Nominating and Corporate Governance Committee ("Governance Committee").

13 45. According to public SEC filings, in 2014, Hennessy received \$425,216 in total
14 compensation from the Company. In 2015, he received \$426,198. In 2016, he received \$426,676.
15 In 2017, he received \$430,567.

16 46. Alphabet identifies Hennessy as an independent Board member; however, in 2015,
17 the proxy advisory firm Glass Lewis told investors to "withhold" votes from Hennessy, suggesting
18 that his independence had been jeopardized by a \$2.3 million donation the Company made to
19 Stanford University, where Hennessy was president.¹⁶

20 47. As a member of the Company's Board and the sole member of the Governance
21 Committee, Hennessy has the duties enumerated below in Sections V.A–D and Section V.G.

22 48. L. John Doerr: Defendant Doerr is a resident of San Mateo County. He has served as
23 a member of the Company's Board since May 1999, and also serves as one of two members of the
24 Board's Leadership Development and Compensation Committee.

25 _____
26 ¹⁵ Data for Pichai's 2014 compensation is not available in public filings.

27 ¹⁶ Kaja Whitehouse, *Shareholders Urged to Protest Google Pay*, USA Today, June 2, 2015,
28 <https://www.usatoday.com/story/tech/2015/06/02/google-shareholders-urged-protest-pay-iss/28349417/>.

49. According to public SEC filings, in 2014, Doerr received \$425,216 in total compensation from the Company. In 2015, he received \$426,198. In 2016, he received \$426,676. In 2017, he received \$430,567.

50. Alphabet identifies Doerr as an independent Director; however, Doerr has substantial business ties to the Company in addition to his role on the Board. Since 1980, Doerr has been a general partner of the venture capital firm of Kleiner Perkins Caufield & Byers (“Kleiner Perkins”), one of Google’s earliest investors. Doerr held millions of Google shares when the Company went public in 2004.¹⁷ At present, Doerr beneficially owns approximately 1,117, 447 of Alphabet Class B common stock through the Vallejo Ventures Trust, and 145,594 shares of Alphabet Class A common stock through certain other trusts for which he disclaims beneficial ownership. As a result, he controls 1.5% of the Company’s voting power.

51. Two major proxy advisory firms—ISS and Glass Lewis—have found reason to question Doerr’s independence a result of the close relationship between Kleiner Perkins and the Company.

52. As far back as 2004, ISS questioned Doerr’s independence because of his other financial connections to the Company.¹⁸

53. In 2015, Glass Lewis recommended that investors withhold votes from Doerr’s re-nomination on the basis of a potential conflict of interest: it pointed out that Doerr’s firm, Kleiner Perkins, owned 10% of the outstanding shares in Nest Labs when that company was acquired by Google for \$3.2 billion in 2014.¹⁹

54. In both 2015 and 2018, ISS recommended that investors withhold votes for Doerr’s re-election to the Board based on his decision as a member of the Leadership Development and Compensation Committee to approve what ISS deemed to be excessive compensation to Company

¹⁷ Stefanie Olsen, *Google Files for Unusual \$2.7 Billion IPO*, CNET, Apr. 30, 2004, <https://www.cnet.com/news/google-files-for-unusual-2-7-billion-ipo/>.

¹⁸ Countryman, *The Chicago Tribune*, Aug. 24, 2004, *supra* note 13.

¹⁹ Whitehouse, *USA Today*, June 2, 2015, *supra* note 16.

1 executives, including Defendant Schmidt.²⁰ In 2015, ISS stated that: “The magnitude of total pay
2 provided to certain executives, paired with a lack of performance criteria and compelling rationale,
3 raises significant concerns.”²¹ In 2018, ISS again maintained that investors should withhold votes
4 from Doerr “due to poor stewardship” and his failure to require “performance-conditioned
5 compensation” for Alphabet executives.²²

6 55. As a member of the Company’s Board and as a member of the Leadership
7 Development and Compensation Committee, Doerr has the duties enumerated in Sections V.A–D
8 and Section V.F.

9 56. Kavitark Ram Shriram: Defendant Shriram is a resident of San Mateo County. He
10 has served as a member of the Company’s Board since September 1998, and also serves as one of
11 two members of the Board’s Leadership Development and Compensation Committee.

12 57. According to public SEC filings, in 2014, Shriram received \$425,216 in total
13 compensation from the Company. In 2015, he received \$426,198. In 2016, he received \$426,676.
14 In 2017, he received \$430,567.

15 58. Alphabet identifies Shriram as an independent Director; however, Shriram is also a
16 Managing Partner of the angel venture investment company, Sherpalo Ventures, LLC, one of
17 Google’s earliest investors, and held millions of Google shares when the Company went public in
18 2004.²³

22
23 ²⁰ Devika Krishna Kumar, *Three Google Directors Survive Challenge Over Pay*, Reuters, June 3,
24 2015, <https://www.reuters.com/article/us-google-compensation-iss/three-google-directors-survive-challenge-over-pay-idUSKBN0OJ1LC20150603>; Alicia Ritcey & Alistair Barr, *Google Staff in Rare Push Want Executive Pay Tied to Diversity*, Bloomberg, June 5, 2018,
25 <https://www.bloomberg.com/news/articles/2018-06-05/google-is-pushed-to-tie-executive-pay-to-progress-on-diversity>.

26 ²¹ Whitehouse, USA Today, June 2, 2015, *supra* note 16.

27 ²² Ritcey & Barr, Bloomberg, June 5, 2018, *supra* note 20.

28 ²³ Countryman, The Chicago Tribune, Aug. 24, 2004, *supra* note 13.

1 59. As far back as 2004, ISS questioned Shriram's independence because of his other
2 financial connections to the Company.²⁴

3 60. In both 2015 and 2018, ISS recommended that investors withhold votes for Shriram's
4 re-election to the Board based on his decision as a member of the Leadership Development and
5 Compensation Committee to approve what ISS deemed to be excessive compensation to Company
6 executives, including Defendant Schmidt.²⁵ In 2018, ISS again maintained that investors should
7 withhold votes from Shriram "due to poor stewardship" and his failure to require "performance-
8 conditioned compensation" for Alphabet executives.²⁶

9 61. As a Member of the Company's Board and as a Member of the Board's Leadership
10 Development and Compensation Committee, Shriram has the duties enumerated below in Sections
11 V.A–D and Section V.F.

12 62. Alan R. Mulally: Defendant Mulally is a resident of King County, Washington. He
13 has served as a member of the Company's Board since July 2014, and is also a member of the
14 Board's Audit Committee.

15 63. According to public SEC filings, in 2014, Mulally received \$1,002,475 in total
16 compensation from the Company. In 2015, he received \$367,341. In 2016, he received \$426,676.
17 In 2017, he received \$430,567.

18 64. As a Member of the Company's Board and as a Member of the Audit Committee,
19 Mulally has the duties enumerated below in Sections V.A–E.

20 65. Ann Mather: Defendant Mather is a resident of Monterey County. She has served as
21 a member of the Company's Board since November 2005, and is also a member of the Board's
22 Audit Committee.

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26 ²⁴ *Id.*

27 ²⁵ Kumar, Reuters, June 3, 2015, *supra* note 20; Ritcey & Barr, Bloomberg, June 5, 2018, *supra*
note 20.

28 ²⁶ Ritcey & Barr, Bloomberg, June 5, 2018, *supra* note 20.

1 66. According to public SEC filings, in 2014, Mather received \$450,216 in total
2 compensation from the Company. In 2015, she received \$451,198. In 2016, she received \$451,676.
3 In 2017, she received \$455,567.

4 67. As a Member of the Company's Board and as a Member of the Audit Committee,
5 Mather has the duties enumerated below in Sections V.A–E.

6 68. Roger W. Ferguson, Jr.: Defendant Ferguson is a resident of San Mateo County. He
7 has served as a member of the Company's Board since June 2016, and is also a member of the
8 Board's Audit Committee.

9 69. According to public SEC filings, in 2016, Ferguson received \$1,004,789 in total
10 compensation from the Company. In 2017, he received \$410,708.

11 70. As a Member of the Company's Board and as a Member of the Audit Committee,
12 Ferguson has the duties enumerated below in Sections V.A–E.

13 71. Diane B. Greene: Defendant Greene is a resident of Santa Clara County. She has
14 served as a Senior Vice President and CEO of Google Cloud since December 2015,²⁷ and has been
15 a member of the Company's Board since January 2012.

16 72. According to public SEC filings, in 2014, Greene received \$425,216 in director
17 compensation from the Company. In 2015, she received \$454,448 in director compensation. In
18 2016, she received \$43,682,359 in total compensation. In 2017, she received \$674,177 in total
19 compensation.

20 73. As indicated in Alphabet's most recent proxy, dated April 27, 2018, Greene does not
21 qualify as an independent director under the laws and regulations of the SEC and the listing
22 guidelines set forth by NASDAQ.

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26 ²⁷ In November 2018, Greene announced that she would be stepping down from her position at
27 Google Cloud in early 2019; however, she continued to hold that role at the time of writing. *See*
28 Blog Post, Diane Greene, Inside Google Cloud Blog, Transitioning Google Cloud After Three Great
Years (Nov. 16, 2018), [https://cloud.google.com/blog/topics/inside-google-cloud/transitioning-
google-cloud-after-three-great-years](https://cloud.google.com/blog/topics/inside-google-cloud/transitioning-google-cloud-after-three-great-years).

1 74. As a Member of the Company's Board, Greene has the duties enumerated below in
2 Sections V.A–D.

3 75. At all times relevant hereto, each of the Individual Defendants was the agent of each
4 of the other Individual Defendants and of Alphabet, and was at all times acting within the course
5 and scope of that agency.

6
7 **IV. FACTUAL ALLEGATIONS**

8 **A. Alphabet's Reputation as a "Good" Company is Key to Recruiting Valuable**
9 **Employees and Collecting the User Data that Powers Its Products**

10 76. Alphabet promotes itself as a "good" company, both in terms of employee benefits
11 and experience, and in terms of the impact its work has on the world. Alphabet publicly participates
12 in numerous diversity initiatives and programs and, until earlier this year, emphasized its famous
13 "Don't be evil" slogan throughout its Code of Conduct.²⁸

14 77. Alphabet's reputation as a responsible and progressive employer is essential to its
15 ability to hire and retain highly sought-after employees. And Alphabet frequently touts the value
16 and importance of its employees to its business. In its 2017 Form 10-K filed with the SEC, Alphabet
17 asserts that:

18 **We take great pride in our culture.** We embrace collaboration and
19 creativity, and encourage the iteration of ideas to address complex technical
20 challenges. Transparency and open dialogue are central to how we work,
21 and we like to ensure that company news reaches our employees first
22 through internal channels. . . .

23 We strive to hire great employees, with backgrounds and perspectives as
24 diverse as those of our global users. We work to provide an environment
25 where these talented people can have fulfilling careers addressing some of
26 the biggest challenges in technology and society.

27 **Our employees are among our best assets and are critical for our**
28 **continued success.** We expect to continue investing in hiring talented
employees and to provide competitive compensation programs to our
employees.

²⁸ Gizmodo observed that the phrase was quietly removed from much of the Code on May 4, 2018, and is now included only as a coda. Kate Conger, *Google Removes 'Don't Be Evil' Clause From Its Code of Conduct*, Gizmodo, May 18, 2018, <https://gizmodo.com/google-removes-nearly-all-mentions-of-dont-be-evil-from-1826153393>.

1 78. Google's 2018 Diversity report similarly stresses the importance of a diverse
2 workforce to the Company's business:

3 **Diversity is a business imperative** because Google builds for everyone—
4 and diverse teams produce better products and services. And it aligns with
5 our mission: to organize the world's information and make it universally
6 accessible and useful.²⁹

7 79. Alphabet also readily admits that data protection is critical to its reputation, brand,
8 and business, because personal data is the building block of nearly all of the Company's products.
9 In its 2017 10-K, the Company explained:

10 Our products and services involve the storage and transmission of users'
11 and customers' proprietary information, and theft and security breaches
12 expose us to a risk of loss of this information, improper use and disclosure
13 of such information, litigation, and potential liability. **Any systems failure
14 or compromise of our security that results in the release of our users'
15 data, or in our or our users' ability to access such data, could seriously
16 harm our reputation and brand and, therefore, our business, and
17 impair our ability to attract and retain users.**

18 80. But—as Kelly Ellis, one of the named plaintiffs in a pay discrimination class action
19 against the Company, contends—in recent years, Alphabet has used its purported reputation for
20 “good” to ward off serious inquiry into deep-seated cultural problems.³⁰

21 81. Defendants' knowing acquiescence or participation in the serious misconduct
22 detailed herein—namely, the failure to address the Company's hostile environment for female
23 employees culminating in the approval and concealment of multi-million dollar payouts to men
24 credibly accused of sexual harassment and the cover-up of a data breach that is being investigated

25 ²⁹ Google 2018 Diversity Report, [https://static.googleusercontent.com/media/diversity.google/en//static/pdf/Google Diversity annu
26 al report 2018.pdf](https://static.googleusercontent.com/media/diversity.google/en//static/pdf/Google_Diversity_annual_report_2018.pdf).

27 ³⁰ Kate Conger, *Google Isn't Listening, So Its Employees Are Suing*, Gizmodo, Mar. 26, 2018,
28 <https://gizmodo.com/google-isnt-listening-so-its-employees-are-suing-1823611720>. In the same
29 vein, one former employee told *The Guardian* in 2017 that the Company was “primarily interested
30 in PR and positive branding when it came to diversity initiatives, which made it difficult to push for
31 more substantive reforms.” Sam Levin, *Women Say They Quit Google Because of Racial
32 Discrimination: 'I Was Invisible'*, *The Guardian*, Aug. 18, 2017,
33 [https://www.theguardian.com/technology/2017/aug/18/women-google-memo-racism-sexism-
34 discrimination-quit](https://www.theguardian.com/technology/2017/aug/18/women-google-memo-racism-sexism-discrimination-quit).

1 for violating an FTC Consent Decree—is emblematic of a “culture of concealment” that threatens
2 to harm the Company’s valuation and long-term success. Defendants’ conduct belies the Company’s
3 stated commitment to corporate responsibility, creates a serious risk of financial and legal penalties,
4 and jeopardizes two of the Company’s most valuable assets: its workforce and its access to data.
5 Moreover, that conduct represents a serious breach of Defendants’ fiduciary duties to the Company
6 because it is wholly inconsistent with the Company’s legal obligations, and its own corporate Code.

7
8 **B. Defendants Breached their Fiduciary Duties by Protecting and Rewarding Male Harassers**

9 82. Defendants knowingly failed to take meaningful steps to address a pervasive culture
10 of harassment and discrimination at Alphabet. An October 25, 2018 article in the *NYT* revealed the
11 depths of this failure, reporting that, instead of taking sexual harassment seriously, the Board
12 repeatedly chose to reward and protect powerful male executives with wasteful and excessive
13 compensation packages even after the Company’s own investigation determined that serious sexual
14 harassment allegations against these men were credible. These actions have caused—and will
15 continue to cause—the Company substantial harm.

16
17 **1. The Board Has Allowed a Culture Hostile to Women to Fester for Years**

18 83. Like much of Silicon Valley, Alphabet is a male-dominated workplace: in 2018,
19 women made up just over 30% of Alphabet’s workforce, and just over 25% of its leadership
20 positions.³¹ As one former employee told *The Guardian*, “Google can feel like a ‘boys’ club’ with
21 a ‘culture of guys promoting guys.’”³² Alphabet has publicly endorsed efforts to increase the
22 Company’s diversity, improve its culture, and achieve pay equity. But a federal investigation and a
23 growing number of articles and lawsuits make clear that the Board has long turned a blind eye to
24 the serious sexual discrimination and harassment problems pervading its workforce.

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26
27 ³¹ Google 2018 Diversity Report.

28 ³² Sam Levin, *The Guardian*, Aug. 18, 2017, *supra* at note 30.

1 a) **Sex Discrimination in Pay and Promotions:**

2 84. Title VII of the Civil Rights Act of 1964 (“Title VII”) makes it illegal to discriminate
3 against someone on the basis of sex in any aspect of employment—including pay, job assignments,
4 and promotions—and long-standing case law establishes sexual harassment as one such prohibited
5 form of sex discrimination. *See, e.g., Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986). The
6 Equal Pay Act of 1963 (“Equal Pay Act”) similarly makes it illegal to pay different wages to men
7 and women for equal work. Numerous state laws echo and enhance those protections on a local
8 level. Alphabet is subject to state and federal anti-discrimination laws in each domestic jurisdiction
9 where it operates.

10 85. A class action suit filed by female Google employees in September 2017 alleges that
11 the Company has violated many of those laws by permitting longstanding and extensive patterns of
12 pay discrimination to persist.³³ Plaintiffs in the *Ellis* case allege that the Company has violated and
13 continues to violate the California Equal Pay Act, Unfair and Unlawful Business Practices Act, and
14 the Fair Housing and Employment Act by paying women less than it pays men for substantially
15 equal work or for substantially similar work by: “(a) assigning women to lower “Levels” (*i.e.*, salary
16 bands) than it assigns men; (b) assigning women to jobs that do not compensate as highly as those
17 populated largely by men; (c) promoting women more slowly and at lower rates than it promotes
18 men; and (d) paying women less than it pays men performing similar work.”³⁴

19 86. The *Ellis* complaint specifically alleges that Google’s policy of setting an employee’s
20 initial compensation and job ranking on the basis of prior compensation simply adopts the gender
21 bias in the market.³⁵ It further alleges that Google relies on stereotypes to place women into lower-
22 prestige divisions such as sales and operations, and pays employees in female-dominated divisions
23

24 ³³ *Ellis*, Complaint filed Jan. 3, 2018.

25 ³⁴ *Id.*

26 ³⁵ Indeed, the sex-discriminatory effects of relying on prior compensation are so well-known that
27 New York City, a jurisdiction in which Google operates, has banned employers from asking about
28 prior compensation at all. *See* Press Release, Bill de Blasio, Mayor of New York City, New York
City Becomes First Nation to Enforce Salary History Ban, <https://www1.nyc.gov/office-of-the-mayor/news/700-17/new-york-city-becomes-first-nation-enforce-salary-history-ban>.

1 less, even if their contributions and responsibilities are comparable to male-dominated ones. On
2 March 27, 2018, a Judge in the Superior Court of California determined that the allegations of
3 intentional discrimination were sufficient to survive Google's motion to dismiss.

4 87. In addition, because Alphabet is a federal contractor, the DOL is empowered by
5 Executive Order 11246 and related regulations to investigate whether the Company is in full
6 compliance with federal anti-discrimination laws. It randomly selected Alphabet for an audit of the
7 Company's Mountain View headquarters in September 2015. The DOL's initial investigation, based
8 on a "snapshot" of the workforce in September 2015, "**found systemic compensation disparities**
9 **against women pretty much across the entire workforce.**"³⁶

10 88. The DOL accordingly sought additional information from the Company in order to
11 determine the cause of that disparity (and whether any liability should follow). The Company
12 resisted those requests, and the DOL commenced an administrative proceeding to obtain access to
13 the documents. On July 14, 2017, an Administrative Law Judge permitted the DOL to collect a
14 second "snapshot" of the workplace in 2014 and directed Alphabet to provide contact information
15 for up to 8,000 employees so that the DOL could collect anecdotal evidence on Alphabet's pay and
16 promotion practices.

17 89. While the investigation is still ongoing, Google made several attempts to limit media
18 coverage of the associated administrative proceedings. The Company initially sought to dismiss the
19 DOL's complaint on the basis that a DOL attorney involved in the case gave an interview to a
20 newspaper that referenced the case and moved to keep the press out of an April 2017 hearing.³⁷ Both
21 efforts were unsuccessful. The Company also attacked the validity of the DOL's investigation on its
22 own blog, misleadingly suggesting that the Department's request for more information to determine
23 the cause of the disparity it identified was, in fact, indicative of the inadequacy of the DOL's
24

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26 ³⁶ DOL, ALJ Case No. 2017-OFC-08004 (Apr. 7, 2017 hearing) at 48 (testimony by OFCCP
27 Regional Director Janette Wipper).

28 ³⁷ Levin, The Guardian, May 22, 2017, *supra* note 7.

1 procedures.³⁸ Such aggressive tactics are at odds with the Company's stated commitment to
2 transparency on pay and promotion equity.³⁹

3 90. The Individual Defendants also actively prevented the Company from adhering to
4 those values by resisting shareholder demands for increased transparency on pay equity. In 2016,
5 2017, and 2018, Company management opposed and—with the assistance of Defendants Page's
6 and Brin's majority control—defeated shareholder proposals that would require the Company to
7 measure and disclose how much female employees make as a percentage of their male
8 counterparts.⁴⁰ Instead, the Company provided its own analysis of the data, albeit one which omitted
9 11% of its employees and high-level executives, as well as disclosure of the Company's median
10 wage gap. A leading proponent of the pay equity shareholder proposals, noting the gaps in
11 Alphabet's substitute analysis, remained dissatisfied: "We think there is room for improvement and
12 **can't give a rubber stamp to an incomplete analysis.**"⁴¹

13 91. The Individual Defendants' opposition to the shareholder proposals, which
14 effectively blocked the Company from adhering to its own stated commitment to anti-
15 discrimination, are consistent with the Company's 2015 failure to comply with federal law when it
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17
18

19 ³⁸ See Blog Post, Eileen Naughton, The Keyword, Our Focus on Pay Equity (Apr. 11, 2017),
20 <https://www.blog.google/outreach-initiatives/diversity/our-focus-pay-equity/>. ("[W]e were quite
21 surprised when a representative of the Office of Federal Contract Compliance Programs at the U.S.
22 Department of Labor (OFCCP) accused us of not compensating women fairly. We were taken aback
23 by this assertion, which came without any supporting data or methodology. The OFCCP
24 representative claimed to have reached this conclusion even as the OFCCP is seeking thousands of
25 employee records . . .").

26 ³⁹ *Id.*

27 ⁴⁰ Hamza Shaban, *Google Parent's Shareholders Vote to Withhold Gender Pay Details*, The Los
28 Angeles Times, Jun. 8, 2017, <https://www.latimes.com/business/technology/la-fi-tn-google-gender-pay-20170608-story.html>; Alphabet, Inc., Proxy Statement (Form DEF 14A) (Apr. 28, 2017);
Alphabet, Inc., Proxy Statement (Form DEF 14A) (Apr. 27, 2018).

29 ⁴¹ Press Release, Arjuna Capital, Arjuna Capital: Google Moves Forward On Closing Gender Pay
30 Gay, But Wage Data Still Incomplete, PR Newswire, <https://www.prnewswire.com/news-releases/arjuna-capital-google-moves-forward-on-closing-gender-pay-gap-but-wage-data-still-incomplete-300614956.html>.

1 refused to provide salary histories and employee contact information to the DOL to facilitate the
2 agency's audit.

3 **b) Sex Stereotyping and Sexual Harassment:**

4 92. In recent years, concerns about the Company's "brogrammer" culture, which some
5 employees and critics viewed as fostering and permitting sexual harassment, have also been on the
6 rise:

7 93. Since Page became CEO of the Company in 2011, some have noted a reduction of
8 women in his committee of close advisers and among the executives appointed to lead product
9 areas.⁴² Moreover, Defendants Brin's and Page's public conduct has contributed to the perception
10 that they don't take women seriously at work. The *Times* reported that in a staff meeting last year,
11 both men "struggled to answer a question about who their female role models were." Page named
12 Alphabet's female Chief Financial Officer. Brin tried "tried to recall the name of a woman he had
13 recently met at a company event who had impressed him," who turned out to be the renowned
14 feminist (and household name), Gloria Steinem.⁴³

15 94. That perception is exacerbated by the Company leadership's historical treatment of
16 women in the workplace and at corporate events. Defendants Brin and Page have both infamously
17 brought their sex lives to work. Defendant Brin, in particular, has had several high-profile
18 relationships with subordinates and was described as a "playboy" among female employees in the
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22

23
24 ⁴² Claire Cain Miller, *In Google's Inner Circle, a Falling Number of Women*, The New York Times, Aug. 22, 2012, <https://www.nytimes.com/2012/08/23/technology/in-googles-inner-circle-a-falling-number-of-women.html> ("Since Larry Page became chief executive and reorganized Google last year, women have been pushed out of his inner circle and passed over for promotions. They include Marissa Mayer, who left last month to run Yahoo after being sidelined at Google.").

25
26 ⁴³ Kate Conger, Daisuke Wakabayashi, & Katie Benner, *Google Faces Internal Backlash Over Handling of Sexual Harassment*, The New York Times, Oct. 31, 2018, <https://www.nytimes.com/2018/10/31/technology/google-sexual-harassment-walkout.html>.
27
28

1 Company's early years.⁴⁴ When the Human Resources department confronted Brin about his sexual
2 relationships with subordinates, he reportedly responded, "Why not? They're my employees."⁴⁵

3 95. While serving as CEO, Defendant Schmidt was known for bringing women with
4 whom he was having extramarital relationships to corporate events, and reportedly once "retained a
5 mistress to work as a company consultant."⁴⁶ Several former Google executives told the *Times* that
6 although Schmidt's relationships largely took place outside of the office, "the fact that they were
7 carried out publicly and that the women attended professional events with him set the tone for other
8 executives."

9 96. Similarly, in 2004 General Counsel David C. Drummond began an extramarital affair
10 with Jennifer Blakely, a female employee in the legal department. The relationship went on,
11 unreported to the Company and in violation of its policies, for three years until the couple had a
12 child together in 2007. The Company then informed Blakely that, based on a policy that discouraged
13 managers from having relationships with their subordinates, she would have to be transferred.
14 According to Blakely, "[o]ne of us would have to leave the legal department. It was clear it would
15 not be David." She left the Company a year later, and claims she was forced to sign documents
16 stating that her departure was voluntary. Drummond, by contrast, apparently faced no consequences
17 for flouting Company policies: he became Alphabet's Chief Legal Officer and, since 2011, has
18 received approximately \$190 million in stock options and awards, an amount that may double on
19 his current trajectory.

23 ⁴⁴ Zoe Bernard, *'Oh My God, This is a Sexual Harassment Claim Waiting to Happen': Early Google*
24 *Insiders Describe Sergey Brin as a Company 'Playboy' Who 'Got Around' with Female Employees*,
Business Insider, Jul. 11, 2018, [https://www.businessinsider.com/google-sergey-brin-employees-](https://www.businessinsider.com/google-sergey-brin-employees-masseuse-room-2018-7)
masseuse-room-2018-7 (describing "Valley of Genius: The Uncensored History of Silicon Valley").

25 ⁴⁵ *Id.*

26 ⁴⁶ Wakabayashi & Benner, *The New York Times*, Oct. 25, 2018, *supra* note 8; Daisuke
27 Wakabayashi, Katie Benner & Claire Cain Miller, *Eric Schmidt to Step Down as Alphabet's*
Executive Chairman, *The New York Times*, Dec. 21, 2017,
28 <https://www.nytimes.com/2017/12/21/technology/eric-schmidt-google-alphabet.html>.

1 97. Consensual relationships between powerful male executives and female subordinates
2 are not, *per se*, indicia of sex discrimination, but they create a serious risk that female employees
3 will be stereotyped as sex objects and that their success will be attributed to their relationships with
4 or attractiveness to their male bosses. Joan Williams, a professor at Hastings Law School noted that
5 a workplace rife with personal relationships is a huge risk for a company. Based on recent news
6 stories about Alphabet, she expressed concern that it “is a petri dish for sexual harassment
7 lawsuits.”⁴⁷ The Board breached its fiduciary duties to the Company and its employees by willfully
8 ignoring warning signs that this risk had come to fruition at Alphabet.

9 98. In November 2017, *The Information* interviewed 40 Alphabet employees about the
10 Company’s gender dynamics. Many said they felt “uncomfortable” with the precedent set by the
11 numerous high-profile relationships between male senior executives and their female staff members,
12 and cited Drummond’s case as “especially troubling.” Employees expressed concern that although
13 the relationships went against Company policy, “there were no consequences for high-level male
14 executives who had relationships with subordinates.” Some “felt the prevalence of interoffice
15 relationships created an unfair perception that any woman who succeeded in climbing the company
16 ranks must be involved with a male superior.”⁴⁸ In that vein, a *Silicon Valley Business Journal* article
17 reported that at one off-site event “a woman said a male Google engineer groped her. In a separate
18 incident, she claimed that her manager told her she should sleep with him ‘because everybody
19 assumed they already had.’”⁴⁹

20 99. The Company’s persistent failure to adopt adequate policies and procedures for
21 preventing, investigating, and punishing sexual harassment also contributed to a hostile work
22 environment for women. For example, “complainants are often not told about the details of
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24 ⁴⁷ Gina Hall, *A Shadow of Office Romances Between Execs and Staff Still Lingers, Google Staffers*
25 Say, *Silicon Valley Business Journal*, Nov. 30, 2017,
26 <https://www.bizjournals.com/sanjose/news/2017/11/30/google-employees-say-shadow-of-office-romances.html>.

27 ⁴⁸ *Id.*

28 ⁴⁹ *Id.*

1 subsequent investigations,” current and former employees said in an article published by the
2 *Times*.⁵⁰ Moreover, the Company’s policy forcing sexual harassment claims against the Company
3 into arbitration has helped to keep formal challenges to those procedures out of the public eye.

4 100. For instance, in February 2018, a former Google software engineer brought sexual
5 harassment and hostile work environment claims against the Company, alleging that her male
6 colleagues, encouraged by the Company’s “bro-culture,” subjected her to a steady stream of sexually
7 suggestive comments and behavior and retaliated against her when she finally made a formal
8 complaint.⁵¹ The Company successfully forced the claim into arbitration in September 2018.

9 101. Thus, even prior to the *NYT*’s report, there were growing signs that employees were
10 fed up with Alphabet’s inadequate approach to sexual harassment and discrimination. In March
11 2018, one commentator, surveying a growing number of lawsuits filed by Google employees, as
12 well as the DOL’s investigation into its pay practices, observed:

13 Viewed singly, harassment lawsuits are often dismissed by cynics who
14 declare that the plaintiff is seeking fame or a quick payday. But take the
15 lawsuits en masse and top them off with the concerns of shareholders and
16 the federal government, and it becomes clear that Google doesn’t have one
or two resentful former employees—it has **a systemic discrimination
problem . . . , and a vocal set of workers who are fed up enough to do
something about it.**⁵²

17 102. In June 2018, Alphabet employees formed an unusual partnership with investors to
18 advocate for a shareholder proposal to tie executive pay to progress on workplace diversity,
19 motivated by a concern that the Company wasn’t “doing enough to address workplace
20 harassment.”⁵³ Another employee explained that his support for the proposal was a response to
21 “[t]he lack of clear, communicated policies and actions to advance diversity and inclusion with
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24 ⁵⁰ Conger & Wakabayashi, *The New York Times*, Nov. 8, 2018, *supra* note 4.

25 ⁵¹ Kate Conger, ‘*Bro Culture*’ Led to Repeated Sexual Harassment, *Former Google Engineer’s*
26 *Lawsuit Says*, Gizmodo, Feb. 28, 2018, <https://gizmodo.com/bro-culture-led-to-repeated-sexual-harassment-former-1823397858>; <https://www.documentcloud.org/documents/4390685-Lee-Complaint.html>.

27 ⁵² Conger, Gizmodo, Mar. 26, 2018, *supra* note 28.

28 ⁵³ Ritcey & Barr, *Bloomberg*, June 5, 2018, *supra* note 20.

1 concrete accountability and leadership*from senior executives.”⁵⁴ But Alphabet’s management and
2 its Board actively campaigned against the proposal by recommending a NO vote.⁵⁵ Not surprisingly,
3 given Page and Brin’s voting control, the proposal failed.

4
5 **2. The New York Times Reveals the Board’s Pattern of Shielding Male Executives Accused of Sexual Harassment**

6 103. On October 25, 2018, the *NYT* reported that it had uncovered a long pattern of
7 protecting and paying off top executives credibly accused of sexual misconduct, including at least
8 two high-profile executives.⁵⁶ Although Alphabet reportedly asked those executives to resign, they
9 did not fire them “for cause.” Instead, the Company allowed the men to walk away with golden
10 parachutes worth hundreds of millions of dollars. Their stories are as follows:

11 104. Senior Vice President Andy Rubin, the creator of the Company’s Android mobile
12 software, left Alphabet in 2014. Rubin had a history of bad behavior at Alphabet that ranged from
13 berating subordinates to keeping sex bondage videos on his work computer. Notwithstanding this
14 abusive conduct, Defendant Page had told people over the years that he felt Rubin had been
15 undercompensated for his contributions to the Company.

16 105. Following the example of other senior leadership at the Company, Rubin also had
17 multiple extramarital relationships with female employees. One such employee began dating Rubin
18 in 2012. The following year, she decided to end the relationship, but was concerned about the
19 consequences for her career. According to two Company executives who spoke to the *Times*, the
20 woman agreed to meet Rubin at a hotel in March of 2013 where, she alleges, Rubin “coerced her
21 into performing oral sex.”

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25 ⁵⁴ Seth Fiegerman & Sara Ashley O’Brien, *Google Employee Confronts Execs Over Diversity: Many*
26 *of Us Feel ‘Unsafe’*, CNN Business, CNN, June 6, 2018,
<https://money.cnn.com/2018/06/06/technology/alphabet-shareholder-meeting/index.html>.

27 ⁵⁵ Alphabet, Inc., Proxy Statement (Apr. 27, 2018).

28 ⁵⁶ Wakabayashi & Benner, *The New York Times*, Oct. 25, 2018, *supra* note 8.

1 106. The woman filed a complaint against Rubin in 2014. In September 2014, while
2 Google's investigation was already well underway, Defendants awarded Rubin a stock grant worth
3 \$150 million, which the *NYT* described as "an unusually generous sum, even by Google's
4 standards." The *Times* indicated that the amount was likely chosen by Defendant Page, who
5 "typically recommends how much senior executives are paid." It was approved by the Leadership
6 Development and Compensation Committee Defendants Doerr and Shriram.⁵⁷

7 107. Just a few weeks later, in October 2014, Google's investigation found the woman's
8 claims against Rubin to be credible. As a result of Rubin's serious misconduct, the *NYT* noted that
9 "Google could have fired Mr. Rubin and paid him nothing on the way out. Instead, the Company
10 handed him a \$90 million exit package."⁵⁸ In addition, Alphabet agreed to delay Rubin's repayment
11 obligations on a \$14 million loan he had obtained from the Company in 2012.

12 108. On top of its generous payout, Alphabet went out of its way to conceal that Rubin's
13 exit had been prompted by his own misconduct. Defendant Page's public statement on the occasion
14 "wish[ed] Andy all the best with what's next" and lauded his contributions to the Company.
15 Alphabet subsequently doubled down on its endorsement of Rubin by investing millions of dollars
16 into his next venture, Playground Global, a venture fund and design studio intended to "incubate"
17 startups making hardware devices.

18 109. Senior Vice President Amit Singhal also enjoyed a multi-million dollar exit package
19 despite credible sexual harassment allegations. In 2015, a female employee complained that Singhal
20 groped her at an off-site event. As with Rubin, the Company investigated and found the woman's
21 claims credible. But again, instead of firing Singhal "for cause," in February 2016 the Company
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25 ⁵⁷ The *NYT* reports that the grant was also approved by a third member of the Leadership
26 Development and Compensation Committee, Paul Otellini, who died in 2017. *Id.*

27 ⁵⁸ The *NYT* asserts that the \$150 million stock grant gave Rubin leverage to negotiate his exit
28 package because stock compensation, particularly the amount of money lost should the executive
leave, is typically a factor in negotiations. *Id.*

1 chose to conceal his misconduct behind a large severance payout and a wall of silence. Alphabet's
2 concealment allowed Singhal to land a lucrative new position at Uber less than one year later.⁵⁹

3 110. In addition to the foregoing, the *NYT* also reported that in 2013, Richard DeVaul, a
4 Director at Google X, the Company's research and development arm, made references to his open
5 marriage during an interview with a prospective female employee. While the woman was awaiting
6 the Company's hiring decision, DeVaul invited her to an event where he asked her to remove her
7 shirt and offered her a back-rub. She refused. The woman, who was not hired by the Company,
8 reported the incident two years later. According to the *Times*, "[a] human resources official later
9 told her that her account was 'more likely than not' true" but "asked her to stay quiet." Despite the
10 fact that the official assured the woman that "appropriate action" was taken, DeVaul remained on
11 in his position until his resignation on October 31, 2018, after his misconduct was reported by the
12 *NYT*.⁶⁰

13 111. Defendants' decision to waste millions of dollars of Company money in order to
14 reward and protect powerful male executives credibly accused of sexual harassment epitomizes their
15 failure to address the Company's wide-spread culture of sexual harassment and discrimination.
16 Following the *NYT* exposé, the Company disclosed an additional 48 cases of sexual harassment in
17 just the past two years, including 13 cases involving senior managers or executives.⁶¹ Although the
18 Company stated that none of those cases included severance payments, the sheer number of sexual
19 harassment cases—each an independent violation of federal and state employment discrimination
20 laws—demonstrates that the Company's Board utterly failed to discharge its fiduciary duties by
21 fostering and concealing widespread sexual discrimination and misconduct. Moreover, the Board
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24 ⁵⁹ News of the misconduct allegation eventually leaked, and Uber dismissed Singhal for not
25 disclosing Alphabet's inquiry into his behavior.

26 ⁶⁰ April Glaser, *The Google X Executive Accused of Sexual Harassment Still Works There, Employees Say*, Slate, Oct. 29, 2018, <https://slate.com/technology/2018/10/google-x-sexual-harassment-allegations-employment.html>.
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28 ⁶¹ The Associated Press, Oct. 25, 2018, *supra* note 9; Wakabayashi & Benner, *The New York Times*, Oct. 25, 2018, *supra* note 8.

1 continually failed to reform the Company's policies to change this pervasive culture of harassment
2 and discrimination.

3 **3. Alphabet Employees Express Outrage at the Board's Conduct**

4 112. The Board's "culture of concealment," its repeated decisions to privilege male
5 harassers over female employees, and its failure to provide an adequate response once its misconduct
6 was revealed have drawn sustained outrage from Alphabet employees.

7 113. In the days following publication of the *NYT* article, Alphabet employees challenged
8 the Company's Board and leadership to explain their actions. Defendants, however, failed to take
9 seriously employees' concerns about the conduct described in *NYT* article—as well as other
10 concerns about how the Company handled problems with sex discrimination and harassment.

11 114. In a weekly staff meeting held the day after the article was published, Defendants
12 Page and Brin initially made no reference to the contents of the *NYT* article, and instead carried on
13 with a previously planned presentation on one of Google's product lines.⁶² Undaunted, one
14 employee reportedly submitted the following question:

15 **Multiple company actions strongly indicate that protection of powerful**
16 **abusers is literally and figuratively more valuable to the company than**
17 **the well-being of their victims. . . . What concrete and meaningful actions**
will be taken to turn this around?⁶³

18 115. Over the following week, other employees expressed similar concerns about
19 Alphabet's leadership to the media. A source within Google X, where DeVaul retained his position,
20 told *Slate*, "There's an increasing sense that Larry [Page] and Sergey [Brin] may be the problem[.]
21 . . . I don't think they're abusers, but they've sheltered them. They clearly think there's some amount
22 of value they're getting out of these men that outweighs the women they're preying on."⁶⁴ Another
23 employee expressed frustration about the "pattern of powerful men getting away with awful
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25 _____
26 ⁶² Hamilton, Business Insider, Nov. 21, 2018, *supra* note 10.

27 ⁶³ Wakabayashi & Benner, The New York Times, Oct. 25, 2018, *supra* note 8.

28 ⁶⁴ Glaser, *Slate*, Oct. 29, 2018, *supra* note 60.

1 behavior towards women at Google . . . or they get sent away with a golden parachute” and pointed
2 out that “it’s a leadership of mostly men making the decisions about what kind of consequences to
3 give, or not give.”⁶⁵ As one commentator concluded: “[Defendant] Page has shown a lack of
4 judgment that negatively affects the women of Alphabet, present and past. **To have this record of
5 facts come to light and do nothing is to publicly condone the way that these deals have been
6 done.**”⁶⁶

7 116. On November 1, 2018, 20,000 Alphabet employees participated in a world-wide
8 “Google Walkout” to protest the Board’s conduct and demand meaningful change. As one organizer
9 of the Walkout explained, “[I]t wasn’t necessarily the story itself that sparked the protest, **so much
10 as management’s response to it.**”⁶⁷

11 117. During the Walkout, Meredith Whittaker, a co-organizer of the protest, addressed the
12 crowd, declaring:

13 This is a movement . . . I’m here because what you read in the *New York*
14 *Times* is a small sampling of the thousands of stories we all have . . . **the**
15 **thousands of instances of abuse of power, discrimination, and**
16 **harassment, and a pattern of unethical and thoughtless decision**
17 **making that has marked this company for the last year. . . . This is it;**
18 **time is up, and we’re just getting started.**⁶⁸

19 118. The Walkout organizers compiled a list of concrete and needed demands for change,
20 including: (i) an end to forced arbitration for issues of sexual harassment and discrimination; (ii) a
21 commitment to end pay and opportunity inequality; (iii) a publicly released transparency report

22 ⁶⁵ Caroline O’Donovan & Ryan Mac, *Walkout To Protest The Company’s Protection Of An Alleged*
23 *Sexual Harasser*, BuzzFeed News, October 30, 2018,
[https://www.buzzfeednews.com/article/carolineodonovan/googles-female-engineers-walkout-](https://www.buzzfeednews.com/article/carolineodonovan/googles-female-engineers-walkout-sexual-harassment)
[sexual-harassment](https://www.buzzfeednews.com/article/carolineodonovan/googles-female-engineers-walkout-sexual-harassment).

24 ⁶⁶ Alexis C. Madrigal, *Your Move, Alphabet Board*, The Atlantic, Oct. 25, 2018,
25 <https://www.theatlantic.com/technology/archive/2018/10/your-move-google-board/574036/>.

26 ⁶⁷ Hamilton, Business Insider, Nov. 21, 2018, *supra* note 10.

27 ⁶⁸ Taylor Lorenz, *The Google Walkout Doesn’t Go Far Enough*, The Atlantic, Nov. 1, 2018,
28 [https://www.theatlantic.com/technology/archive/2018/11/google-employees-walkout-over-sexual-](https://www.theatlantic.com/technology/archive/2018/11/google-employees-walkout-over-sexual-harassment-doesnt-go-far-enough/574705/)
[harassment-doesnt-go-far-enough/574705/](https://www.theatlantic.com/technology/archive/2018/11/google-employees-walkout-over-sexual-harassment-doesnt-go-far-enough/574705/).

1 regarding sexual harassment at the Company; (iv) an inclusive and clear sexual misconduct
2 reporting process; (v) the appointment of a Google employee representative to the Board; and
3 (vi) elevating the status of chief diversity officer and allowing the position to answer to the CEO
4 and make recommendations to the Board.⁶⁹ The employees also issued a statement that read, in part:

5 All employees and contract workers across the company deserve to be safe.
6 Sadly, **the executive team has demonstrated through their lack of**
7 **meaningful action that our safety is not a priority.** We've waited for
8 leadership to fix these problems, but have come to this conclusion: no one
9 is going to do it for us.⁷⁰

119. Commentators viewed the size and energy of the Walkout as a major warning sign
10 for the Company. Risk experts and analysts told the *WSJ* that the protest “signaled a crisis in faith—
11 one that, if widespread, could cause reputational harm, potentially affecting Google’s standing as
12 an aspirational workplace.”⁷¹ John Wilson, Cornerstone Capital Group’s head of research and
13 corporate governance, emphasized that massive employee unrest is particularly dangerous for a
14 company that, like Alphabet, is “built on human capital and nothing else.”⁷²

120. In the wake of the Walkout, Alphabet made small concessions to its employees’
15 concerns: it agreed to end its policy of forced arbitration for sexual harassment claims; improve its
16 investigation process—which had often left complainants in the dark about the outcome of
17 investigations into their allegations;⁷³ and dock employee performance ratings if they refuse to

21 ⁶⁹ Lisa Maria Segarra, *More Than 20,000 Google Employees Participated in Walkout Over Sexual*
22 *Harassment Policy*, *Fortune*, Nov. 3, 2018, http://fortune.com/2018/11/03/google-employees-walkout-demands/?utm_source=emailshare&utm_medium=email&utm_campaign=email-share-article&utm_content=20181104.

23 ⁷⁰ Claire Lampen, *Google Employees Stage Worldwide Walkout to Protest Tech Giant’s Handling*
24 *of Sexual Misconduct*, *Gothamist*, Nov. 1, 2018, http://gothamist.com/2018/11/01/google_walkout_nyc.php#photo-1.

25 ⁷¹ Mengqi Sun & Ezequiel Minaya, *Google Workers’ Walkout Signals Crisis of Faith in Company*
26 *Culture*, *The Wall Street Journal*, Nov. 2, 2018, <https://www.wsj.com/articles/employee-discontent-threatens-googles-reputation-1541151001>.

27 ⁷² *Id.*

28 ⁷³ Conger & Wakabayashi, *The New York Times*, Nov. 8, 2018, *supra* note 4.

1 participate in sexual harassment training.⁷⁴ But these limited steps and the lack of any strong
2 affirmative measures undertaken by the Board only underscore the serious inadequacies that the
3 Board has allowed to persist in the Company's sexual harassment and discrimination policies, and
4 fail to address the broader environmental issues that have allowed sexual misconduct to flourish.⁷⁵
5 They do not demonstrate how the Company's leadership will be held accountable for enacting and
6 enforcing policies that ensure high-powered male executives credibly accused of misconduct will
7 be punished, rather than richly rewarded. Moreover, these efforts are prospective only: they do not
8 include a plan to recapture bonuses or stock paid to executives who were found to have been credibly
9 accused of sexual harassment, nor do they indicate how or whether the leadership and Board
10 members who signed off on such wasteful and inappropriate payments will be sanctioned.

11
12 **C. Defendants Breached their Fiduciary Duties by Hiding the Google+ Breach From the Public**

13 121. Defendant likewise breached their fiduciary duties and caused harm to the Company
14 in connection with the data breach of users' information. As reported by the *WSJ*, Defendants
15 deliberately hid the Google+ data breach to avoid regulatory scrutiny. Defendants' conduct in
16 response to the Google+ breach demonstrates a knowing failure to ensure that Alphabet complies
17 with applicable data privacy regimes. And, just as Alphabet's long-standing failure to address its
18 sexual harassment and discrimination problem set the stage for massive employee and shareholder
19 outrage after the *NYT*'s revelations, the Company's repeated failure to comply with data privacy
20 rules in the past has increased the fallout and potential penalties it now faces as a result of its decision
21 to conceal the Google+ breach from affected users and the public.

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25 ⁷⁴ *Id.*

26 ⁷⁵ As the Walkout's organizers note, Alphabet's response overlooked several of their core demands,
27 particularly those meant to address the systemic racism and discrimination within the company. *See*
28 Mariella Moon, *Google Walkout Organizers: Changes are a Start, But Not Enough*, Engadget, Nov.
9, 2018, <https://www.engadget.com/2018/11/09/google-walkout-response/>.

1 **1. Alphabet’s History of Concealing Data Privacy Issues Had Already**
2 **Resulted in Heightened Legal Scrutiny and Penalties**

3 122. Even before the *WSJ* article brought the deliberate concealment of the Google+
4 breach to light, Alphabet’s pattern of misleading, incomplete, and inaccurate statements regarding
5 data privacy was already drawing heightened regulatory scrutiny and legal penalties—
6 circumstances which were well-known to Defendants.

7 123. In October 2011, Alphabet entered into a twenty-year Consent Decree with the FTC
8 to resolve charges that the Company used deceptive tactics and violated its own privacy promises
9 to consumers when it launched a social media network, Google Buzz, in 2010, in violation of the
10 FTC Act.⁷⁶ The Consent Decree provides, in relevant part, that Alphabet:

11 a. **“shall not misrepresent** in any manner, expressly or by implication[] **the**
12 **extent to which [the Company] maintains and protects the privacy and confidentiality** of any”
13 personal information the Company collects from or about an individual;

14 b. shall establish and implement a comprehensive privacy program; and

15 c. shall obtain biennial assessments from a third-party professional certifying
16 that the Company’s “privacy controls are operating with sufficient effectiveness to provide
17 reasonable assurance to protect the privacy of” information collected about or from an individual.

18 124. In August 2012, Alphabet agreed to pay a record \$22.5 million civil penalty to settle
19 FTC charges that it violated the Consent Decree when it misrepresented its use of “cookies” and
20 targeted advertisements to users.⁷⁷

21 125. On August 13, 2018, the *AP* reported yet another instance of misleading conduct.⁷⁸
22 Google had specifically assured users of its apps and mobile devices that they could control whether
23

24 ⁷⁶ FTC Consent Decree,
25 <https://www.ftc.gov/sites/default/files/documents/cases/2011/10/111024googlebuzzdo.pdf>.

26 ⁷⁷ Press Release, FTC, Google Will Pay \$22.5 Million to Settle FTC Charges it Misrepresented
27 Privacy Assurances to Users of Apple’s Safari Internet Browser (Aug. 9, 2012),
[https://www.ftc.gov/news-events/press-releases/2012/08/google-will-pay-225-million-settle-ftc-](https://www.ftc.gov/news-events/press-releases/2012/08/google-will-pay-225-million-settle-ftc-charges-it-misrepresented)
28 [charges-it-misrepresented](https://www.ftc.gov/news-events/press-releases/2012/08/google-will-pay-225-million-settle-ftc-charges-it-misrepresented).

⁷⁸ Ryan Nakashima, *Google Tracks Your Movements, Like It or Not*, the Associated Press, Aug. 13,

1 the Company stored location information it gathered from those sources by turning off a feature
2 called “Location History.” The Company failed to disclose, however, that the user’s information
3 would be stored—regardless of whether “Location History” was turned off—each time he or she
4 used a Google-controlled feature on their device, such as Google Maps, weather apps, and Google
5 searches. The *AP*’s findings were confirmed by computer-science researchers at Princeton at the
6 publication’s request.

7 126. The *AP*’s report drew immediate concern from lawmakers. Senator Mark Warner of
8 Virginia, complaining about a spate of “corporate practices that diverge wildly from the totally
9 reasonable expectations of their users,” expressed his support for policies that would give users more
10 control over their data. Representative Frank Pallone of New Jersey similarly called for
11 “comprehensive consumer privacy and data security legislation.”

12 127. Users have filed a consumer class action in the Northern District of California,
13 asserting that Alphabet’s misleading statements on geolocation tracking violate California’s
14 Constitutional right to privacy, state laws prohibiting the use of electronic tracking devices, and
15 common law protections for an individual’s reasonable expectation of privacy. *See Patacsil v.*
16 *Google, LLC*, No. 5:18-cv-5062-EJD (N.D. Cal.).

17 **2. The *WSJ* reveals Defendants breached their fiduciary duties to the**
18 **Company and their legal obligations by knowingly concealing the**
19 **Google+ breach to avoid regulatory scrutiny**

20 128. On October 8, 2018, the *WSJ* reported that senior executives at the Company,
21 including Defendant Pichai, deliberately concealed a data breach affecting hundreds of thousands
22 of Google+ accounts.⁷⁹

23 129. Specifically, Google includes application programming interfaces (“APIs”) in its
24 products that permit outside developers to access user data. Typically, APIs require a user to grant
25 permission before his or her data can be accessed. In March 2018, during a company-wide review
26 of third-party developer access to Google account and Android device data, Alphabet discovered

27 2018, <https://www.apnews.com/828aefab64d4411bac257a07c1af0ecb>.

28 ⁷⁹ MacMillan & MacMillan, *The Wall Street Journal*, Oct. 8, 2018, *supra* note 11.

1 that, since 2015, an internal bug in a Google+ API allowed outside developers to access the data of
2 users who had not granted permission for sharing, including data that was explicitly marked
3 nonpublic in Google's privacy settings.

4 130. During a two-week period after the bug was discovered, Alphabet ran tests to assess
5 the scope and impact of the breach. It determined that the private Google+ data of 496,951 users
6 had been exposed to up to 438 applications over nearly a three-year period. The exposed user data
7 included users' "full names, email addresses, birth dates, gender, profile photos, places lived,
8 occupation, and relationship status."⁸⁰ Some of the individuals whose data was exposed included
9 paying users of Google's "G Suite," which might include businesses, schools, and governments.

10 131. Under the terms of the Consent Decree, the Company had heightened obligations to
11 identify and rectify data breaches and was required to submit to third-party audits of its privacy
12 security every two years. In fact, third-party audits were completed for periods ending in both April
13 2016 and April 2018.⁸¹ Nonetheless, Alphabet failed to uncover the Google+ breach for three years,
14 and, when the breach was finally uncovered, the Company's policies and procedures rendered it
15 wholly incapable of determining what damage the breach might have caused. Because Alphabet
16 deleted its activity logs every two weeks, it was unable to accurately identify affected users or
17 determine conclusively whether the exposed data had been misused. And because the Company did
18 not secure "audit rights" over its developers, it had only a limited ability to determine what the apps
19
20

21 ⁸⁰ *Id.*

22 ⁸¹ FTC, Independent Assessor's Report on Google Inc.'s Privacy Program, Promontory Financial
23 Group (June 24, 2016), https://www.ftc.gov/system/files/documents/foia_requests/2016_Google_Privacy_Assessment%28C-4336%29.pdf; Harper Neidig, *Audit Cleared Google Privacy Practices Despite Security Flaw*,
24 The Hill, Oct. 9, 2018, <https://thehill.com/policy/technology/410568-exclusive-privacy-audit-failed-to-mention-of-google-plus-security-flaw>. The methodology sections of both audit reports are
25 redacted, so the extent of the information available to each auditor is unclear.

26 Megan Gray, a non-residential fellow at Stanford Law School Fellow, speculated in an April 2018
27 white paper that the audits appeared to rely on an "attestation" model, in which the evaluation is
28 effectively based on nothing more than a company's leadership descriptions of its own policies.
Meghan Gray, *Understanding & Improving Privacy 'Audits' Under FTC Orders*, White Paper
(Apr. 18, 2018), <http://cyberlaw.stanford.edu/about/people/megan-gray>.

1 with access to the data might have done with it. The *WSJ* reported that Alphabet also failed to “call
2 or visit with any of the developers” in order to determine the scope of possible misuse.

3 132. Not only did the Company fail to uncover the breach or identify the scope of the
4 harm, but it actively sought to conceal the breach from the public. Specifically, Alphabet legal and
5 policy staff drafted an internal memo recommending against disclosing the incident to potentially
6 affected users or the public. As detailed by the *WSJ*, the Company’s greatest concern was avoiding
7 a public data privacy scandal: the memo “warned that disclosing the incident would likely trigger
8 ‘immediate regulatory interest’ and invite comparisons to Facebook’s leak of user information to
9 data firm Cambridge Analytica,” referring to the controversy over a political data firm that acquired
10 access to the private data of millions of Facebook users during the 2016 Presidential election.
11 Disclosing the breach “would likely result ‘in us coming into the spotlight alongside or even instead
12 of Facebook despite having stayed under the radar throughout the Cambridge Analytica scandal,’
13 the memo said. It ‘almost guarantees [Defendant Pichai] will testify before Congress.’”

14 133. The memo was shared with “senior executives,” including Defendant Pichai. The
15 *WSJ* further reported that Defendant Pichai was specifically “briefed on the plan not to notify users
16 after an internal committee had reached that decision.” It is also reasonable to infer that the
17 Company’s Audit Committee, which is tasked with overseeing its legal compliance and strategy,
18 including with respect to data privacy, was involved in and/or apprised of the decision.

19 134. A statement from Ben Smith, a Google Fellow and Vice President of Engineering,
20 published on a Company blog on the same day as the *WSJ* article, also discussed the Google+ breach.
21 Smith’s statement, however, did not directly address the memo described in the *WSJ* article nor did
22 it address or explain Alphabet’s decision to conceal the breach for months. Instead, Smith first
23 asserted that the Company “found no evidence that any developer was aware of this bug, or abusing
24 the API, and we found no evidence that any Profile data was misused”—despite the fact that, as
25 explained above, Alphabet’s records would not have included any evidence of misuse that occurred
26 more than two weeks before the breach was discovered, and the Company apparently did not seek
27 more fulsome records from third-parties. Smith’s discussion of the Google+ breach concluded with
28 an announcement that the social networking site would be shut down.

1 135. The initial privacy breach may have been just the tip of the iceberg. Alphabet
2 subsequently announced in December 2018 that a software update exposed the data of an additional
3 **52.5 million** Google+ users to third-party developers for six days in the previous month.⁸²

4
5 **3. Lawmakers Investigate Whether Alphabet’s Concealment Violates the
6 FTC Consent Decree or Other Data Protection Laws**

7 136. The revelation of the Google+ breach did, as the internal memo feared, trigger
8 “immediate regulatory interest” from several groups of Senators. But each group of lawmakers
9 found the fact of the Company’s cover-up at least as troubling—if not more so—than the fact of the
10 breach itself.

11 137. On October 10, 2018, Senators Richard Blumenthal, Edward Markey, and Tom Udall
12 sent a written request to the FTC (the “Blumenthal Letter”), urging an immediate investigation into
13 whether the Google+ breach violates the Company’s Consent Decree or other obligations, and
14 encouraging the Commission to impose “substantial financial penalties and strong legal remedies”
15 if any “problematic conduct” is found.⁸³

16 138. The Blumenthal Letter observed that the Company’s assertions that it “found no
17 evidence” that the data at issue was misused “clash with the fact that Google has insufficient records
18 to determine whether a breach occurred” because it only kept logs for two weeks. Thus “we may
19 never know the full extent of the damage caused by the failure to provide adequate controls and
20 protections to users.”

21 139. Noting that Alphabet was already “one of the rare companies that has violated an
22 FTC consent decree” before this misconduct came to light, the Blumenthal Letter also asserted that
23 the “failure to adequately disclose the Google+ vulnerability calls into question Google’s
24

25 ⁸² Ben Tobin, *Google To Shut Down Google+ Early Due to Bug That Leaked Data of 52.2 Million*
26 *Users*, USA Today, Dec. 11, 2018, <https://www.usatoday.com/story/tech/2018/12/11/google-plus-leak-social-network-shut-down-sooner-after-security-bug/2274296002/>.

27 ⁸³ Release, Office of Senator Ed Markey, *Senators Demand FTC Investigation Into Google’s Privacy*
28 *Practices & Culture of Concealment*, Oct. 10, 2018, <https://www.markey.senate.gov/news/press-releases/senators-demand-ftc-investigation-into-googles-privacy-practices-and-culture-of-concealment>.

1 compliance” with its Consent Decree. In particular, the Blumenthal Letter pointed out that the decree
2 required the Company to perform audits of its data privacy controls—like the one that uncovered
3 the Google+ breach—every six months, but the Company nevertheless failed to uncover this bug
4 for nearly three years.

5 140. The Blumenthal Letter condemned the Company’s deliberate decision to hide the
6 breach for six months to avoid public scrutiny, and attributed that misconduct to a broader problem
7 with its leadership: “The awareness and approval by Google management not to disclose represents
8 **a culture of concealment and opacity set from the top of the company.**”

9 141. Other lawmakers expressed similar concerns. On October 11, 2018, Senators John
10 Thune, Roger Wicker, and Jerry Moran wrote to Defendant Pichai requesting more information
11 about the decision not to disclose the breach, which the Senators described as “troubling.”⁸⁴ Their
12 questions included whether Alphabet had disclosed the breach to the FTC or to an Independent
13 Assessor tasked with reviewing the Company’s privacy programs pursuant to the Consent Decree
14 prior to the *WSJ*’s public revelation.

15 142. On October 23, 2018, Senators Amy Klobuchar and Catherine Cortez Masto also
16 wrote to Defendant Pichai “to express serious concerns” about Alphabet’s conduct.⁸⁵ After
17 discussing the Consent Decree and subsequent 2012 violation, the Senators asserted that the
18 Company’s actions “raise serious questions about whether another violation may have taken place.”
19 Their letter concluded by asking Defendant Pichai to respond to a series of questions about the
20 circumstances of the non-disclosure, including: “**Does Google believe its leadership acted**
21 **appropriately in withholding this information from the public?**”

22 143. In addition, the New York and Connecticut Attorneys General announced
23 investigations into whether the Google+ breach violates the data protection laws in those states.

24
25
26 ⁸⁴ Letter from Senators John Thune, Roger F. Wicker & Jerry Moran, United States Senate, to
27 Sundar Pichai, CEO of Google, Inc. (Oct. 11, 2018).

28 ⁸⁵ Letter from Senators Amy Klobuchar & Catherine Cortez Masto, United States Senate, to Sundar
Pichai, CEO of Google, Inc. (Oct. 23, 2018).

1 144. European regulators are also investigating. The Google+ data breach was discovered
2 in March 2018, two months prior to the enactment of the EU's General Data Protection Regulation
3 ("GDPR"), which sets a strict 72-hour disclosure deadline to notify regulators of a personal data
4 breach and can impose steep penalties for violators. Regulators in Ireland, Alphabet's European
5 center of operations, are investigating whether the breach, and the subsequent failure to disclose it,
6 nevertheless trigger penalties under the GDPR or the Irish data protection law that pre-dated it.
7 Regulators in Hamburg, Germany, where Google maintains offices, are also investigating whether
8 the breach and delayed disclosure violated their pre-GDPR regulations.

9 **V. THE INDIVIDUAL DEFENDANTS BREACHED THEIR FIDUCIARY DUTIES**

10 145. Each Individual Defendant, by virtue of his or her position as a director and/or
11 officer, owed to Alphabet and its shareholders numerous fiduciary duties, as described in further
12 detail below. The conduct of the Individual Defendants complained of herein involves a knowing
13 and culpable violation of their obligations as directors and officers of Alphabet, the absence of good
14 faith on their part, and a reckless disregard for their duties to Alphabet and its shareholders that the
15 Individual Defendants were aware or should have been aware posed a risk of serious injury to the
16 Company.

17 146. Defendants who are members of the Board's Audit Committee, Leadership
18 Development and Compensation Committee, and Governance Committee also breached duties
19 imposed on them in the Charter of each Committee, as discussed in more detail below.

20 147. As a result of the Individual Defendants' illegal actions and course of conduct, the
21 Company is now the subject of numerous lawsuits and increased regulatory scrutiny, as detailed
22 herein.

23 **A. The Individual Defendants Breached Their Fiduciary Duties to the Company**

24 148. The Individual Defendants, because of their positions of control and authority as
25 officers and/or directors of Alphabet, were able to, and did, directly and/or indirectly, exercise
26 control over the wrongful acts complained of herein.

27 149. By reasons of their positions as officers and/or directors and fiduciaries and because
28 of their ability to control the business and corporate affairs of Alphabet, Defendants owe the

1 Company and its stockholders the fiduciary obligations of trust, loyalty, good faith, and due care,
2 and were required to do their utmost to control and manage the affairs of Alphabet in a fair, just,
3 honest, and equitable manner. Defendants were required to act in furtherance of the best interests of
4 Alphabet and its stockholders so as to benefit all stockholders equally, and not in furtherance of
5 their own personal interest or benefit.

6 150. Each officer and director of Alphabet owes to the Company and its stockholders the
7 fiduciary duty to exercise good faith and diligence in the administration of the affairs of the
8 Company and in the use and preservation of its property and assets, and the highest obligations of
9 fair dealing.

10 151. Each officer and director of Alphabet also owed to the Company and its stockholders
11 the fiduciary duty to protect Alphabet's assets from loss or waste.

12 152. The Individual Defendants each breached his or her duty of loyalty and good faith
13 by failing to address or prevent a systemic culture of sexual harassment and discrimination, and
14 instead rewarding and shielding male executives credibly accused of harassment and assault with
15 wasteful and excessive severance packages; and by allowing Defendants to cause, or by themselves
16 causing, the Company to deliberately conceal the Google+ data privacy breach from the public,
17 despite the Company's obligation under data protection laws and the Consent Decree.

18 **B. The Individual Defendants Breached their Duties of Reasonable and Prudent**
19 **Supervision**

20 153. To discharge their duties and to comply with good corporate governance, the
21 Individual Defendants were required to exercise reasonable and prudent supervision over the
22 management, policies, practices and controls of the business and financial affairs of the Company.
23 By virtue of such duties, Defendants were required to, among other things:

- 24 (a) ensure that the Company complied with applicable legal obligations,
25 requirements and regulations, including acting only within the scope of its
26 legal authority and disseminating truthful and accurate statements to the
investing public;
27 (b) conduct the affairs of the Company in an efficient, business-like manner so
as to make it possible to provide the highest quality performance of its
28 business, to avoid wasting the Company's assets, and to maximize the value
of the Company's stock;

- 1 (c) remain informed as to how Alphabet conducted its operations and, upon
2 receipt of notice or information of imprudent or unsound conditions or
3 practices, make reasonable inquiry in connection therewith and take steps to
4 correct such conditions or practices and make such disclosures as necessary
5 to comply with the law;
- 6 (d) ensure that Alphabet was operated in a diligent, honest and prudent manner
7 in compliance with applicable laws, rules and regulations;
- 8 (e) implement and maintain adequate internal controls to ensure that the
9 Company was promptly informed of any sexual harassment, sexual
10 misconduct, or sexual abuse, committed by a Company employee, including
11 an officer or director, and responded to such conduct in accordance with state
12 and federal laws;
- 13 (f) implement and maintain adequate internal controls to ensure that personal
14 data held by the Company was protected in accordance with applicable data
15 privacy regimes; that the Company was promptly informed of any breach of
16 personal data held by the Company; and that the Company respond to any
17 such breach in accordance with state, federal, and international laws; and
- 18 (g) establish and implement internal controls and appropriate risk assessment and
19 risk management procedures.

20 154. The Individual Defendants breached their fiduciary duties of reasonable and prudent
21 supervision and oversight by: failing to insure that policies and procedures were to insure that
22 Alphabet officers and directors did not trade on material, non-public information; abdicating their
23 responsibility to oversee top executives and management by approving and affirmatively concealing
24 systemic harassment and discrimination against the Company's female employees; and failing to
25 implement policies, procedures and internal controls sufficient to insure that the Company was in
26 compliance with all applicable laws and regulations regarding data protection, sexual harassment,
27 and discrimination.

28 155. In the alternative, the Individual Defendants breached their fiduciary duties to the
Company through their utter failure to attempt to assure that a reasonable information and reporting
system was in place to alert management of the hostile and discriminatory working environment at
the Company, or its non-compliance with applicable data privacy regimes.

C. The Individual Defendants Violated Google's Corporate Governance Guidelines

156. Alphabet's Board has adopted a set of Corporate Governance Guidelines ("Guidelines") which are reviewed periodically by the Governance Committee (together with the

Leadership Development and Compensation Committee, as necessary). The Guidelines are intended “to provide a structure within which our directors and management can effectively pursue Alphabet’s objectives for the benefit of its stockholders.”⁸⁶

157. The Board’s stated primary responsibilities are: (a) “to exercise their business judgment to act in what they reasonably believe to be the best interests of Alphabet and its stockholders”; (b) “to oversee management’s performance to ensure that Alphabet operates in an effective, efficient and ethical manner in order to produce value for Alphabet’s stockholders”; and (c) to “evaluate[] Alphabet’s overall strategy and monitor[] Alphabet’s performance against its operating plan and against the performance of its peers.”⁸⁷

158. The Board is also responsible for “risk oversight,” including “oversight of strategic, financial and execution risks and exposures associated with Alphabet’s business strategy, product innovation and sales road map, policy matters, significant litigation and regulatory exposures, and other current matters that may present material risk to Alphabet’s or its subsidiaries’ or controlled affiliates’ financial performance, operations, infrastructure, plans, prospects or reputation, acquisitions and divestitures.”⁸⁸

159. The Individual Defendants failed to comply with these Guidelines: their participation or acquiescence in the unethical conduct described above caused significant harm to the Company, its users, its employees, and its shareholders.

D. The Individual Defendants Violated Google’s Code of Conduct by Permitting the Company to Engage in Unlawful Acts

160. Under the Company’s Code of Conduct⁸⁹ (the “Code”), the Individual Defendants had additional obligations to the Company’s shareholders, employees, and users.

⁸⁶ Google – Corporate Governance Guidelines §I.

⁸⁷ Google – Corporate Governance Guidelines §III.1.

⁸⁸ Google – Corporate Governance Guideline §III.1.

⁸⁹ Google’s Code of Conduct is posted on the Company’s website along with all other corporate governance documents.

1 161. The Code holds Company employees and Board members to “the highest possible
2 standards of ethical business conduct,” out of a recognition that “[r]espect for our users, for the
3 opportunity, and for each other are foundational to our success.”

4 162. The Code expresses the Company’s commitments to, and obligations under, non-
5 discrimination laws: it states that “Googlers are expected to do their utmost to create a workplace
6 culture that is free of harassment, intimidation, bias, and unlawful discrimination”; prohibits
7 “unlawful discrimination on the basis of” any characteristic protected by law—including sex and
8 gender—as well as “discrimination, harassment and bullying in any form; and prohibits retaliation
9 against any worker who reports or participates in the investigation of a possible violation of the
10 Code, Company policies, or law.”

11 163. The Code also expressly acknowledges the importance of trust to the Company’s
12 business model: “Our reputation as a company that our users can trust is our most valuable asset,
13 and it is up to all of us to make sure that we continually earn that trust. All of our communications
14 and other interactions with our users should increase their trust in us.” Recognizing that personal
15 data is central to the Company’s business, the Code also requires employees to “know your
16 responsibilities” under the Company’s Security Policies, Privacy Policies, and “applicable data
17 protection laws.”

18 164. The Code concludes with the Company’s famous exhortation to its employees and
19 Directors: “[D]on’t be evil.”

20 165. Defendants did not meet the standards of this Code: in service to their own interests,
21 they knowingly condoned violations of anti-discrimination and anti-harassment laws, data privacy
22 laws and the Consent Decree.

23 **E. The Audit Committee Defendants Breached the Duties Imposed by the Audit**
24 **Committee Charter by Permitting Alphabet to Engage in Conduct in Violation**
of the Law

25 166. In addition to these duties, under the Company’s Audit Committee Charter, the Audit
26 Committee Defendants (Defendants Mather, Ferguson, and Mulally) owed specific duties to
27 Alphabet and its stockholders with respect to the Company’s internal controls, risk assessment, and
28 legal compliance programs.

1 167. Specifically, Section 5 of the Audit Committee Charter charged the Committee with
2 oversight responsibility relating to the “design, implementation, adequacy and effectiveness of
3 Alphabet’s internal controls.” It also provides that the Committee “has responsibility for oversight
4 of risks and exposures associated with financial matters.” The Charter makes clear that that
5 responsibility extends to “policies relating to legal compliance and strategy, and our operational
6 infrastructure, particularly . . . data privacy.”

7 168. In Section 15, the Audit Committee is also charged with oversight over Alphabet’s
8 Code as well as its “overall compliance program.” Those duties include reviewing and approving
9 any changes to those policies, and assessing their implementation and efficacy at least annually.

10 169. Thus, the Audit Committee Defendants breached their additional fiduciary duties by
11 allowing the Board and Company management to fail in their legal obligations to comply with state,
12 federal, and international regulations regarding sexual discrimination and harassment, and data
13 privacy, including the Consent Decree. Indeed, given the multiple serious sexual harassment
14 incidents at the executive level, the Audit Committee breached its fiduciary duties both by allowing
15 the culture of harassment to continue—in clear violation of the Company’s Code—and by
16 concealing the seriousness of the problem from shareholders.

17 **F. The Leadership Development and Compensation Committee Defendants**
18 **Breached the Duties Imposed by the Leadership Development and**
19 **Compensation Committee Charter by Approving Severance Payouts to**
Executives Who Should Have Been Terminated for Cause

20 170. Under the Company’s Leadership Development and Compensation Committee
21 Charter, the Leadership Development and Compensation Committee Defendants (Defendants Doerr
22 and Shriram) also owed specific duties to Alphabet and its stockholders to ensure that the
23 Company’s employee compensation policies and practices were consistent with its business
24 objectives and with “sound corporate governance principles.”

25 171. The Leadership Development and Compensation Committee oversees the
26 Company’s employee compensation policies and reviews compensation and incentive programs for
27 Alphabet’s executive officers, directors, and other members of “senior management,” as necessary.
28 Specific responsibilities include the “annual evaluation of the performance of Alphabet’s senior

management, as appropriate”; reviewing and approving “all salaries, bonuses, equity awards, perquisites, post-service arrangements, stock ownership requirements and other compensation and benefit plans for Alphabet’s Chief Executive Officer and other members of senior management”; providing oversight for overall compensation and benefit programs for all employees; and “overseeing risks and exposures associated with “the operation and structure of compensation programs and arrangements.”

172. Crucially, the Leadership Development and Compensation Committee is also charged with “review[ing] and approv[ing] the terms of any offer letters, employment agreements, **termination agreements** or arrangements . . . between Alphabet, on the one hand, and its Chief Executive Officer or **member of senior management**, on the other.”

173. Thus, the Leadership Development and Compensation Committee Defendants breached their fiduciary duties by approving wasteful and excessive severance payouts for high-level male executives credibly accused of misconduct. Defendants Doerr and Shriram were specifically identified by the *Times* as approving a \$150 million stock grant to Rubin in September 2014. It is also reasonable to infer by virtue of their positions as members of the Leadership Development and Compensation Committee and approval of Rubin’s stock grant that they also approved the \$90 million pay-out to Rubin in October 2014, after the Company had found credible allegations that Rubin had coerced a female employee into performing oral sex on him, as well as the multi-million dollar severance package Singhal received in February 2016 after he was credibly accused of groping a female employee.

174. The Leadership Development and Compensation Committee Defendants also breached their fiduciary duties by allowing the Company’s discriminatory pay and promotion policies to persist, even in the face of a government investigation and class action suit.

G. The Governance Committee Defendant Breached the Duties Imposed by the Governance Committee Charter

175. Under the Company’s Governance Committee Charter, the Governance Committee Defendant (Defendant Hennessy) is responsible for, among other things, “develop[ing], update[ing] as necessary, and recommend[ing] to the Board the governance principles applicable to Alphabet.”

1 176. The Governance Committee is charged with oversight over the risks and exposures
2 associated with “corporate governance” and “overall board effectiveness,” and is required to review
3 the Company’s governance practices at least annually.

4 177. Thus, Hennessy, as the sole Governance Committee Defendant, had an independent
5 obligation under the Committee’s charter to not only assess the performance of the Board, but to
6 implement appropriate governance and oversight protections to ensure the proper functioning of the
7 Board and compliance with its fiduciary obligations. Hennessy breached this obligation when he
8 failed to, among other things, report or prevent the gross failures of governance and leadership
9 detailed above.

10 178. Moreover, the very structure of Alphabet’s Governance Committee indicates the
11 skewed priorities of the Company’s leadership. Corporate governance committees are widely
12 recognized as crucial for any corporation that operates in a complex regulatory framework. The New
13 York Stock Exchange (“NYSE”) Manual describes nominating / corporate governance committees
14 as “central to the effective functioning of the board,” particularly identifying board nominations as
15 “among a board’s most important functions.”⁹⁰ The NYSE accordingly requires its listed companies
16 to establish such a committee, and further requires that the committee be composed entirely of
17 independent directors.⁹¹ NASDAQ, where Alphabet is listed, similarly encourages listed companies
18 to establish an independent nominating committee.⁹² Thus, the responsibilities assigned to
19 Alphabet’s Governance Committee would be substantial for a company of any size.

20 179. For a company as large as Alphabet—a multinational conglomerate with more than
21 94,000 employees working around the globe in a number of disparate industries and with vast
22 quantities of sensitive personal information—the job of overseeing every facet of the Company’s
23 corporate governance mechanisms must be enormous. But its Governance Committee is made up
24 of only a single member, Defendant Hennessy. His lone stewardship is in stark contrast to the
25

26 ⁹⁰ NYSE Manual, Rule 303A.04 Commentary.

27 ⁹¹ NYSE Manual, Rule 303A.04(a).

28 ⁹² NASDAQ Listing Rule 5605(e)(2).

1 makeup of corporate governance committees in much smaller companies. For instance, a March
2 2017 survey conducted by EY, the parent company of Ernst & Young, found that the corporate
3 governance committees of Fortune 100, S&P 500, S&P 400, and S&P companies all averaged
4 around four members, with the former two categories just over that number, and the latter two just
5 under.⁹³ The Individual Defendants' obvious failure to provide this essential committee with
6 adequate staffing demonstrates their disregard for the importance of effective corporate governance
7 procedures.

8 **VI. DAMAGES TO THE COMPANY**

9 180. The Defendant's actions have exposed the Company to substantial potential liability
10 and severely damaged the Company's goodwill and reputation.

11 **A. Legal and Regulatory Penalties**

12 181. As a large, multi-national employer, a federal contractor, and a business built on the
13 collection and trade of sensitive, personal data, Alphabet and its subsidiaries are governed by various
14 laws and strict regulations in the states and countries in which they do business. Accordingly,
15 Defendants misconduct could result in substantial financial penalties, a loss of government
16 contracts, and significant legal liabilities.

17 **1. Sexual Harassment and Discrimination**

18 182. As a major employer and federal contractor, Alphabet is also subject to state and
19 federal anti-discrimination laws in each jurisdiction where it operates. These laws prohibit
20 discrimination on the basis of sex or gender in all material aspects of employment, including through
21 an employer's toleration of sexual harassment or a hostile work environment and systematic pay
22 discrepancies.

23 183. As a result of Defendants' improprieties, Alphabet engaged in a systemic, unlawful
24 pattern and practice of sexual harassment and discrimination. Alphabet's conduct violated
25

26
27 ⁹³ EY, A Look Inside Nominating and Governance Committees (Mar. 2017),
28 <https://www.ey.com/us/en/issues/governance-and-reporting/ey-a-look-inside-nominating-and-governance-committees>.

1 applicable federal and state laws and regulations, and operated to the detriment of the Company and
2 its shareholders. State and federal governmental enforcement agencies have the ability to impose
3 severe monetary penalties and other forms of sanctions should they find that Alphabet's conduct
4 violated those laws.

5 184. In particular, if the DOL investigation concludes that, as its initial review suggests,
6 the Company allowed or endorsed systemic pay disparities, Alphabet's failure to address patterns
7 of sexual harassment and discrimination may jeopardize its ability to act as a federal contractor.⁹⁴

8 185. Defendants caused Alphabet to waste substantial resources by causing it to provide
9 hundreds of millions of dollars in cash, stock, and other Company assets to shield male executives
10 credibly accused of sexual harassment, in violation of federal and state law. Defendants' conduct in
11 this arena has also drawn harassment and discrimination lawsuits and the Company also paid
12 significant sums to victims of sexual harassment and wasted corporate assets on litigation and
13 arbitrations.

14 186. Most recently, there is a class action discrimination lawsuit that exposes Google to
15 substantial liability. The *NYT*'s revelations may prompt additional victims to come forward, creating
16 additional liabilities for the Company and Defendants.

17 2. Data Privacy

18 187. As the Company recognizes in its own corporate governance documents, Alphabet's
19 business is subject to state, federal, and international data protection laws and regulations, and
20 compliance with those regimes is essential to the Company's success. Alphabet's deliberate failure
21 to timely disclose the Google+ breach likely violated many of those protective regimes.

22 188. In particular, the Consent Decree specifically prohibits misrepresentations about the
23 efficacy of privacy controls, including user controls over who may access their data. Defendants
24 knew, or should have known, that their deliberate failure to disclose Google+ breach—which
25 inadvertently permitted developers to access data that had not been marked "public" and potentially
26

27 ⁹⁴ DOL, Complaint filed on Jan. 4, 2017.
28

1 affected close to 500,000 accounts—could violate that decree yet again. Commentators have pointed
2 out that fines for violating the Consent Decree may reach \$16,000 per day per affected user.⁹⁵

3 189. Revelations of the Board’s misconduct have also drawn securities fraud suits and a
4 consumer protection class action, all of which may result in significant liabilities to the Company
5 and one or more Defendants.

6 **B. Reputation, Goodwill, and Workplace Harm**

7 190. The legal and regulatory penalties Alphabet now faces as a result of its Board’s
8 failure to comply with applicable regulations are serious in their own right. Perhaps more
9 concerning, however, these violations also threaten two pillars of the Company’s success: its
10 workforce, and its access to user data.

11 191. As a result of the public scandals over the Board’s “culture of concealment,” as well
12 as the serious nature of the conduct that it concealed, Alphabet’s ability to recruit talented employees
13 has been damaged and may continue to be damaged. Women, in particular, will be loath to enter a
14 workplace where the company leadership has made clear that male employees are valued more
15 highly than their female counterparts, regardless of whether those men have also engaged in
16 egregious misconduct and abuse.

17 192. The Company’s lack of diversity may also be hurting its bottom line: a recent
18 McKinsey & Company report determined, among other things, that (i) companies in the top quartile
19 for racial and ethnic diversity are 33 percent more likely to have financial returns above their
20 respective national industry medians”; and (ii) companies in the top quartile for gender diversity are
21 21 percent more likely to have financial returns above their respective national industry medians.⁹⁶

24 ⁹⁵ April Glaser, *Why Google Could be in Trouble Over the Google Plus Bug*, Slate, Oct. 11, 2018,
<https://slate.com/technology/2018/10/google-plus-bug-ftc-consent-decree.html>.

25 ⁹⁶ Vivian Hunt, et al., *Delivering Through Diversity*, McKinsey & Company, Jan. 2018,
26 [https://www.mckinsey.com/business-functions/organization/our-insights/delivering-through-](https://www.mckinsey.com/business-functions/organization/our-insights/delivering-through-diversity)
27 [diversity. See Report, McKinsey & Company, Delivering Through Diversity \(Jan. 2018\),](https://www.mckinsey.com/~media/mckinsey/business%20functions/organization/our%20insight/s/delivering%20through%20diversity/delivering-through-diversity_full-report.ashx)
28 [https://www.mckinsey.com/~media/mckinsey/business%20functions/organization/our%20insight](https://www.mckinsey.com/~media/mckinsey/business%20functions/organization/our%20insight/s/delivering%20through%20diversity/delivering-through-diversity_full-report.ashx)
[s/delivering%20through%20diversity/delivering-through-diversity_full-report.ashx.](https://www.mckinsey.com/~media/mckinsey/business%20functions/organization/our%20insight/s/delivering%20through%20diversity/delivering-through-diversity_full-report.ashx)

1 193. Moreover, Alphabet's own risk disclosures admit that, as a data-based company, its
2 success depends on trust. And it recognizes that damage to its "reputation and brand" in that respect
3 could also "seriously harm" its business.⁹⁷ A 2018 Accenture Strategy study recently aimed to
4 quantify that risk: after analyzing more than 7,000 companies around the world operating across 20
5 industries, the study estimated that losses of trust had resulted in missed opportunities on the order
6 of \$180 billion in potential revenues.⁹⁸ But in connection with both the rampant sexual harassment
7 and the data breach, Defendants' conduct demonstrates a reckless disregard for the rights and
8 autonomy of less powerful players—whether that be the ability of female employees to exercise
9 control over their bodies and their careers, or the ability of users to exercise control over their private
10 data.

11 194. The market's negative reaction to the news of both events demonstrates the harm
12 they caused to the Company's public reputation, as well as the likelihood that further losses will
13 follow: news of the delayed Google+ disclosure and the subsequent call for an FTC investigation
14 caused the Company's stock price to immediately fall by 5.9%, causing a \$35 billion decline in
15 Alphabet's market capitalization, and Alphabet's stock dropped 7% immediately following
16 publication of the *NYT* article revealing the Company's sexual harassment problem.

17 195. In sum, Alphabet's business, goodwill, and reputation have been, and will continue
18 to be, severely damaged by Defendants' decision to allow and perpetuate the Company's systemic
19 violations of state and federal laws in both the data privacy and sex discrimination arenas.

20 **VII. DERIVATIVE ALLEGATIONS**

21 196. Plaintiffs bring this action derivatively in the right and for the benefit of Alphabet to
22 redress injuries suffered, and to be suffered, by Alphabet as a direct result of breach of fiduciary
23 duties by Defendants. Alphabet is named as a Nominal Defendant solely in a derivative capacity.

24
25 ⁹⁷ Alphabet, Inc., Annual Report (Form 10-K) (Feb. 18, 2018).

26 ⁹⁸ See Press Release, Accenture, Half of Companies on the Accenture Competitive Agility Index
27 Experienced a Major Drop in Trust, Losing Out on \$180B in Potential Revenues (Oct. 30, 2018),
28 [https://newsroom.accenture.com/news/half-of-companies-on-the-accenture-competitive-agility-
index-experienced-a-major-drop-in-trust-losing-out-on-180b-in-potential-revenues.htm](https://newsroom.accenture.com/news/half-of-companies-on-the-accenture-competitive-agility-index-experienced-a-major-drop-in-trust-losing-out-on-180b-in-potential-revenues.htm).

1 197. Plaintiffs will adequately and fairly represent the interests of Alphabet in enforcing
2 and prosecuting its rights.

3 198. Plaintiffs were a shareholder of Alphabet at the time of the wrongdoing complained
4 of, have continuously been a shareholder since that time, and is a current shareholder of Alphabet.

5 199. The Board of Alphabet currently consists of John L. Hennessey; L. John Doerr; Alan
6 R. Mulally; Kavitar Ram Shriram; Lawrence E. Page; Sergey Brin; Ann Mather; Diane B. Greene;
7 Roger W. Ferguson, Jr.; Sundar Pichai; and Eric Emerson Schmidt. Plaintiffs have not made a
8 demand on the Board to pursue this Action because such demand would be futile, as discussed
9 below.

10 **VIII. DEMAND FUTILITY ALLEGATIONS**

11 **A. Demand is Excused Because Each of the Individual Defendants Faces a** 12 **Substantial Likelihood of Liability**

13 200. Each of the Individual Defendants cannot impartially consider a demand because
14 each faces a substantial likelihood of liability as a result of his or her participation or acquiescence
15 in the sexual harassment and data privacy issues detailed above, which breached the Defendants'
16 fiduciary duties to the Company, its employees, and its shareholders. Nine of the Defendants were
17 on the Board in October 2014 when Andy Rubin received his massive payout and in February 2016,
18 when Amit Singhal received his—despite the fact that both men were leaving after the Company's
19 own investigation determined that they likely violated employment discrimination laws—and all
20 eleven were present in March 2018, when the Company made the decision to actively conceal the
21 Google+ data breach, likely in violation of the Company's Consent Decree with the FTC. Further,
22 each of the Defendants is potentially liable for actively concealing and withholding information
23 from shareholders, employees, and regulators, also in breach of their fiduciary duties. *See supra*
24 § V.

25 201. In particular, the following eight Defendants (including all six of the so-called
26 "independent" directors on the Board) not only acquiesced in the events described above, but were
27 active, named participants:
28

1 202. Defendant Page: By virtue of his position as Alphabet’s CEO, Defendant Page likely
2 participated in, if not acquiesced in, the wasteful decision to award Rubin and Singhal astronomical
3 severance packages even after they were found to have been credibly accused of sexual harassment.
4 He also acted as the Company’s mouthpiece when it chose to shield Rubin’s conduct from scrutiny
5 and bless his future endeavors.

6 203. In addition, because Page signed the Company’s SEC filings in his role as Alphabet’s
7 CEO and made materially misleading statements to investors, Page has also been personally named
8 a defendant in two shareholder class actions alleging that the Company’s misrepresentations
9 regarding the Google+ privacy breach violated federal securities laws.⁹⁹

10 204. Defendants Doerr and Shriram: As members of the Leadership Development and
11 Compensation Committee, Defendants Doerr and Shriram were specifically identified as approving
12 the \$150 million stock grant to Rubin, and also likely approved the wasteful compensation awarded
13 to other male executives credibly accused of harassment.

14 205. Moreover, Defendants Doerr and Shriram have a history of failing to adequately
15 carry out the responsibilities of the Leadership Development and Compensation Committee. In both
16 2015 and 2018, ISS recommended that investors withhold votes from both men based on their
17 decision as members of the Leadership Development and Compensation Committee to approve what
18 ISS deemed to be excessive compensation to Company executives, including Defendant Schmidt.¹⁰⁰
19 In 2015, ISS stated that: “The magnitude of total pay provided to certain executives, paired with a
20 lack of performance criteria and compelling rationale, raises significant concerns.”¹⁰¹ In 2018, ISS
21 again maintained that investors should withhold votes from Doerr “due to poor stewardship” and
22 his failure to require “performance-conditioned compensation” for Alphabet executives.¹⁰²

25 ⁹⁹ *Wicks*, No. 3:18-cv-6245 (N.D. Cal.); *El Mawardy*, No. 1:18-cv-5704 (E.D.N.Y).

26 ¹⁰⁰ Kumar, Reuters, June 3, 2015, *supra* note 20; Ritcey & Barr, Bloomberg, June 5, 2018, *supra*
note 20.

27 ¹⁰¹ Whitehouse, USA Today, June 2, 2015, *supra* note 16.

28 ¹⁰² Ritcey & Barr, Bloomberg, June 5, 2018, *supra* note 20.

1 206. Defendant Pichai: The *WSJ* article specifically notes that Pichai, Google's CEO, was
2 informed of, and presumably signed off on, the Company's decision to conceal the Google+ breach
3 from the public in order to avoid regulatory scrutiny. As a result of Pichai's role in the scheme, two
4 groups of Senators sent Pichai written requests for additional information about that chain of events.

5 207. In addition, Pichai has also been personally named a defendant in one shareholder
6 class action alleging that the Company's misrepresentations regarding the Google+ privacy breach
7 violated federal securities laws.¹⁰³

8 208. Defendants Mather, Ferguson, and Mulally: As members of the Audit Committee,
9 Defendants Mather, Ferguson, and Mulally were obligated under the Company's Audit Committee
10 Charter to exercise oversight over the Company's Internal Controls with respect to risk, financial
11 exposure, legal compliance, and data privacy. By failing to prevent the numerous violations of state
12 and federal law, as well as the Consent Decree—which imposed clear and specific disclosure
13 obligations on the Company in the event of a data breach—the Audit Committee Defendants
14 breached their obligations under the Audit Committee Charter and will accordingly be subjected to
15 additional liability.

16 209. Defendant Hennessey: As the sole member of the Governance Committee, Defendant
17 Hennessey was obligated to implement appropriate governance and oversight protections to ensure
18 the proper functioning of the Board and compliance with its fiduciary obligations. By failing to
19 prevent the numerous violations of Company policy, state and federal law, as well as the Consent
20 Decree, Hennessey breached his obligations under the Governance Committee Charter and will
21 accordingly be subjected to additional liability.

22 210. Finally, Defendants' bias on these issues is also illustrated by their persistent
23 opposition to stockholder proposals concerning pay equity, incentives for meeting workplace
24 diversity metrics, and equal share voting.

25
26
27
28 ¹⁰³ *Wicks*, No. 3:18-cv-6245 (N.D. Cal.).

1 **B. Demand is Excused Because a Majority of the Board is Not Independent**

2 211. Demand futility requires that a majority of directors are not considered disinterested
3 for purposes of considering a shareholder demand. Here, at least seven, if not all of Alphabet's
4 eleven Directors have disabling interests that make them incapable of considering a shareholder
5 demand.

6 212. Five of Alphabet's Directors—Defendants Page, Brin, Schmidt, Pichai, and
7 Greene—are not independent by definition, due to their simultaneous roles as officers or senior
8 executives in the Company.¹⁰⁴ In addition, at least two of the so-called “independent” directors are
9 conflicted as a result of their extensive financial ties to the Company and to each other:

10 213. Defendant Doerr: Defendant Doerr is a General Partner of the venture capital firm
11 Kleiner Perkins. In that capacity, he was one of Google's earliest investors, and held millions of
12 Google shares when the Company went public in 2004.¹⁰⁵ In large part because of his beneficial
13 ownership of Alphabet Class B common stock, Doerr controls 1.5% of the Company's voting power.

14 214. Doerr has been a member of the Company's Board for nearly twenty years. During
15 that time, Alphabet has repeatedly made multi-million-dollar expenditures on private companies in
16 which Kleiner Perkins is a major investor, to Doerr's significant financial benefit. For instance,
17 Kleiner Perkins owned 10% of the outstanding shares in Nest Labs when that company was acquired
18 by Google for \$3.2 billion in 2014.¹⁰⁶ Identifying that transaction as a troubling conflict of interest,
19 Glass Lewis recommended that investors withhold votes from Doerr's re-nomination the following
20 year.

21 215. More recently, GV (Alphabet's venture capital investment arm, formerly known as
22 Google Ventures) and CapitalG (Alphabet's growth equity investment fund) directly invested, or
23

24 ¹⁰⁴ Alphabet's 2018 Proxy admits that Page, Brin, Schmidt, Pichai, and Greene are not independent.
25 Alphabet, Inc., Proxy Statement (Apr. 27, 2018).

26 Greene announced in November 2018 that she was stepping down from her position as CEO of
27 Google Cloud; however, NASDAQ Rule 5605(a)(2) states that a Director will not be considered
independent if she has been an employee of the company at issue within the prior three years.

27 ¹⁰⁵ Olsen, CNET, Apr. 30, 2004, *supra* note 17.

28 ¹⁰⁶ Whitehouse, USA Today, June 2, 2015, *supra* note 16

1 committed to invest, an aggregate of approximately \$128.6 million in certain private companies in
2 which Kleiner Perkins was a co-investor or existing investor. From the beginning of 2017 through
3 March 31, 2018, KPCB Holdings, Inc., as nominee for certain funds of Kleiner Perkins and several
4 of the managers of the fund, held more than 10% of the outstanding shares of such private
5 companies. Doerr is a managing director/member of the managing members of those funds.

6 216. Defendant Doerr's financial entanglements with the Company—and those of his
7 firm—create a significant conflict of interest that would prevent him from impartially considering
8 a demand to initiate litigation against its leadership and controlling shareholders.

9 217. Defendant Shriram: Like Defendant Doerr, Defendant Shriram was one of Google's
10 earliest investors. He is a founding member of the Company's Board, where he has served for more
11 than two decades.

12 218. Defendant Shriram is also the founder and managing partner of Sherpalo Ventures
13 ("Sherpalo"), a venture capital fund. Founded in 2000, Sherpalo invests in early stage companies in
14 the high tech and Internet industries. Sherpalo's success as an investment fund is dependent, in many
15 cases, on its business and financial ties to Alphabet and its founders.

16 219. For example, Sherpalo invested in Bump Technologies ("Bump"), an early stage tech
17 company that had difficulty generating revenues. On September 16, 2013, Bump announced that it
18 was acquired by Google. Less than four months later, however, Google announced it was
19 discontinuing Bump's operations.¹⁰⁷

20 220. Similarly, Sherpalo joined Defendant Schmidt and GV as co-investors in Urban
21 Engines, an Internet software and services company started in 2014.¹⁰⁸ In September 2016, Alphabet
22 purchased Urban Engines for use with its Google Maps application.

23
24 ¹⁰⁷ Catherine Shu, *Google To Close Bump and Flock, Its Recently Acquired File Sharing Apps*,
25 TechCrunch, Jan. 1, 2014, [https://techcrunch.com/2013/12/31/google-to-close-bump-and-flock-its-](https://techcrunch.com/2013/12/31/google-to-close-bump-and-flock-its-recently-acquired-file-sharing-apps/)
26 [recently-acquired-file-sharing-apps/](https://techcrunch.com/2013/12/31/google-to-close-bump-and-flock-its-recently-acquired-file-sharing-apps/); See CrunchBase, Bump Technologies,
<https://www.crunchbase.com/organization/bump-technologies#section-overview>.

27 ¹⁰⁸ See CrunchBase, Urban Engines, [https://www.crunchbase.com/organization/urban-](https://www.crunchbase.com/organization/urban-engines/investors/investors_list#section-investors)
28 [engines/investors/investors_list#section-investors](https://www.crunchbase.com/organization/urban-engines/investors/investors_list#section-investors); Alphabet Acquires Urban Engines, CSS Insight,
<https://www.ccsinsight.com/blog/alphabet-acquires-urban-engines>.

1 221. And the intertwined financial ties do not end there. Over the years that they have
2 been together on the Board, Defendant Shriram has frequently co-invested with Defendant Doerr
3 through their venture capital firms Sherpalo and Kleiner Perkins. Indeed, their mutual financial
4 success in these numerous co-ventures is frequently tied to each other.

5 222. Sherpalo and Kleiner Perkins have been linked repeatedly in articles regarding their
6 joint investments made in companies in India. For example, they invested in a number of Indian
7 companies including PayMate, Cleartrip.com, CE Infosystems, and Naukri.com, as well as the
8 renewable energy company Kotak Urja Pvt Ltd. Other joint investments include Lightbox Venture
9 I which was used to buy a portfolio of six investments made by Kleiner Perkins and Sherpalo. They
10 have also jointly invested in Reverse Logistics Co.

11 223. Defendant Shriram's decades-old financial relationship with the Company and its
12 leadership creates a serious conflict of interest that would prevent him from impartially considering
13 a demand to initiate litigation against them. In addition, the decades long business relationships
14 among Defendants Shriram, Doerr, Page, Brin, and Schmidt renders each of them unable to
15 independently consider suing the others for wrongdoing given those personal and financial ties.

16 224. Thus, demand is futile, and therefore excused, because a majority of the Board cannot
17 independently evaluate any such request.

18 **C. Demand is Excused Because the Board is Entirely Controlled by Defendants**
19 **Page, Brin, and Schmidt**

20 225. By virtue of their ownership of over 56.7% of Alphabet's voting power, Page, Brin,
21 and Schmidt have complete voting control and veto power over the election of all directors, as well
22 as virtually all other corporate matters involving a shareholder vote. Notably, that controlling voting
23 power is not matched by equivalent investment in the Company; instead, Page, Brin, and Schmidt
24 have engineered an unusual capital structure that allows them to retain control over the Company
25 while cashing out large portions of their shares. In 2012, the Company's Board, including eight
26 Defendants, voted in favor of a controversial recapitalization plan that kept Page, Brin and
27 Schmidt's voting control unchanged, while creating a new Class C stock with no voting power, thus
28

1 maintaining the voting power of the founders.¹⁰⁹ As a result, Page and Brin are currently able to
2 retain 51% of the Company's voting power with only 13% of its equity.

3 226. Alphabet identifies the concentration of voting power as a risk factor in its SEC
4 filings, explaining that Page, Brin, and Schmidt have "significant influence over management and
5 affairs and over all matters requiring stockholder approval, including the election of directors and
6 significant corporate transactions."¹¹⁰ In sum, the Company effectively admits that each of the
7 outside Directors is beholden to Page, Brin, and Schmidt for their well-paid and prestigious positions
8 on the Board. It is also reasonable to infer that Page, as the Company's CEO, and Brin, as its
9 President, also have the power to terminate any inside Board member from his or her extremely
10 lucrative positions with the Company. Accordingly, each of the other directors would be unable to
11 impartially consider a demand to initiate litigation against Brin, Page, or Schmidt—or any of their
12 favored Board members or executives.

13 227. Defendants Page, Brin, and Schmidt have already made clear that they will put their
14 preference for loyalty over good corporate governance. For instance, as noted above, various
15 shareholder proxy services have recommended in recent years that stockholders withhold their votes
16 for Defendants Hennessy, Doerr, and Shriram on the basis of both financial conflicts of interest and
17 poor performances. Doerr and Shriram, in particular, have been criticized for approving an excessive
18 compensation package for Defendant Schmidt unrelated to his performance at the Company. Despite
19 these recommendations, Page, Brin, and Schmidt continue to vote for these Board members
20 annually.

21 228. As a result, the outside directors continue to support the founders' vice-like control
22 over the Company, despite their relatively small equity stake. Notwithstanding multiple proposals
23 from Alphabet's stockholders that the Company adopt a recapitalization plan for all outstanding
24

25 ¹⁰⁹ Google, Inc., Proxy Statement (Form DEF 14A), (May 9, 2012), at S-3 (indicating that the Board
26 unanimously approved the plan); Google, Inc., Proxy Statement (Form DEF 14A), (Apr. 24, 2013),
27 at 53 (stating that the plan was approved).

28 ¹¹⁰ Alphabet, Inc., Annual Report (Feb. 18, 2018) at 22.

1 common stock to have one vote per share, including as recently as the last shareholders' meeting,
2 the Board continues to recommend that shareholders vote against such proposals.¹¹¹

3 **FIRST CAUSE OF ACTION**
4 **(Breach of Fiduciary Duty Against the Individual Defendants)**

5 229. Plaintiffs incorporate by reference and reallege each and every allegation contained
6 above, as though fully set forth herein.

7 230. Defendants each owe Alphabet and its stockholders the highest fiduciary duties of
8 loyalty, good faith, fair dealing, due care, and oversight in managing and administering the
9 Company's affairs.

10 231. Defendants knowingly, intentionally, and fraudulently violated and breached their
11 fiduciary duties of good faith, fair dealing, loyalty, due care, and oversight as a result of the
12 misconduct described above.

13 232. Defendants have a duty to the Company and its stockholders to establish and
14 maintain adequate internal controls to ensure the Company was operated in a prudent and lawful
15 manner. Defendants have an affirmative obligation to maintain an internal control system to uncover
16 wrongdoing and to act when informed of wrongdoing. Moreover, the Defendants have an obligation
17 to ensure that, at all times, the Company and its officers and directors act in compliance with the
18 law as detailed herein. The Defendants engaged in a sustained and systematic failure to properly
19 exercise their fiduciary duties. Among other things:

- 20 (a) Defendants breached their fiduciary duties by failing to ensure that Alphabet
21 had adequate internal controls, risk management procedures and other
22 policies to prevent its executives from engaging in sexual misconduct in the
23 workplace and creating an abusive workplace environment in violation of
24 federal and state laws and regulations, and Google's Code of Conduct;
- 25 (b) Defendants breached their duties by concealing the abusive workplace
26 environment that allowed powerful male executives accused of serious sexual
27

28 ¹¹¹ Alphabet, Inc. Proxy Statement (Apr. 27, 2018) at 7.

misconduct to receive large severance packages and the Company's public blessing;

(c) Defendants breached their duties by permitting the Company to systematically underpay and discriminate against female employees, in violation of state and federal law;

(d) Defendants breached their fiduciary duties by failing to ensure that Alphabet had adequate internal controls, risk management procedures and other policies to ensure compliance with applicable data privacy regimes, in violation of federal and state laws and regulations, and Google's Code of Conduct;

(e) Defendants breached their fiduciary duties by participating or acquiescing in the Company's decision to hide a major privacy breach from users and the general public in order to avoid regulatory scrutiny, in likely violation of the Company's obligations under a 2011 FTC Consent Decree and other laws and regulations; and

(f) Defendants breached their fiduciary duties by violating the Company's Corporate Governance Guidelines, Code of Business Ethics and other duties required of Board members as set forth in other corporate governance documents.

233. These actions could not have been a good faith exercise of prudent business judgment to protect and promote the Company's corporate interests.

234. As a direct and proximate result of Defendants' breaches of their fiduciary duties, Alphabet has sustained significant damages, including damages to its stock price and market capitalization and injury to its corporate image and goodwill. Damages also include, among other things, the cost of defending Alphabet against government investigations and the penalties, fines and other liabilities and expenses associated with those investigations including the potential loss or denial of federal contracts as well as significant fines under the Consent Decree. As a result of the misconduct alleged herein, Defendants are liable to the Company and their continuing violations of duty should be enjoined.

SECOND CAUSE OF ACTION (Unjust Enrichment Against All Defendants)

235. Plaintiffs incorporate by reference and reallege each and every allegation contained above as though fully set forth herein.

1 236. By their wrongful acts and omissions, Defendants were unjustly enriched at the
2 expense, and to the detriment, of Alphabet and its stockholders.

3 237. Defendants were unjustly enriched for years as a result of compensation, stock
4 options, stock awards, directors' fees and other remuneration they received while breaching their
5 fiduciary duties owed to the Company.

6 238. Plaintiffs, as shareholders and representatives of Alphabet, seek restitution from
7 Defendants and seek an order from this Court disgorging all profits, benefits, stock options, stock
8 awards, and other compensation obtained by the Defendants from their wrongful conduct and
9 fiduciary breaches.

10 239. Plaintiffs, on behalf of Alphabet, have no adequate remedy at law.

11 **THIRD CAUSE OF ACTION**
12 **(Against Individual Defendants for Corporate Waste)**

13 240. Plaintiffs incorporate by reference and reallege each and every allegation contained
14 above, as though fully set forth herein.

15 241. The Individual Defendants have a fiduciary duty to protect Alphabet's assets from
16 loss or waste.

17 242. By approving excessive compensation payments to male executives credibly accused
18 of sexual harassing female employees when those executives could have been fired for cause and
19 paid nothing, Individual Defendants breached this fiduciary duty and have caused Alphabet to waste
20 its corporate assets.

21 243. As a result of the Defendants' corporate waste, the Company has suffered substantial
22 damages.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiffs seek the following relief:

25 A. A determination that this action is a proper derivative action and that demand on the
26 Individual Defendants is excused as futile;

27 B. A finding that the Individual Defendants breached their fiduciary duties;
28

1 C. An award against all of the Defendants and in favor of the Company for the amount
2 of all damages sustained by Alphabet as a result of Defendants' breaches of fiduciary duties, unjust
3 enrichment, and corporate waste, including any and all damages compensable by statute and/or law,
4 as well as disgorgement of all profits, benefits and other compensation that Defendants obtained
5 because of the misconduct alleged herein;

6 D. An order directing the Individual Defendants to take necessary actions to end the
7 hostile work environment at the Company as well as its pattern of non-compliance with data privacy
8 laws, including by establishing retrospective and prospective remedies with accountability to third-
9 parties and reforming and enhancing the Company's governance and internal controls and
10 procedures to comply with applicable laws and to protect Alphabet, its employees, and its
11 shareholders from repeating the harms described herein;

12 E. An award to Plaintiffs for the costs and disbursements of this Action, including
13 reasonable attorneys' fees, experts' fees, costs, and expenses; and,

14 F. An award of such other further relief as the Court deems just and equitable

15 **JURY DEMAND**

16 Plaintiffs demand a trial by jury on all issues so triable.

17 Dated: January 8, 2019

Respectfully submitted,

18 **BERMAN TABACCO**

19
20 By: _____

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*Attorneys for Plaintiffs Northern California Pipe
Trades Pension Plan and Teamsters Local 272 Labor
Management Pension Fund*

VERIFICATION

Plaintiff Northern California Pipe Trades Pension Plan, under penalty of perjury, states as follows:

1. I am the Administrator of Northern California Pipe Trades Trust Funds, a Plaintiff in this derivative action brought on behalf of Alphabet, Inc., and I have authorized its filing on behalf of Northern California Pipe Trades Pension Plan. I have read the foregoing derivative complaint and know the contents thereof. The facts stated therein that relate to Northern California Pipe Trades Pension Plan's own acts and deeds are true. As to matters alleged that pertain to the acts and deeds of others, I believe them to be true.

2. The Northern California Pipe Trades Pension Plan has held stock in Alphabet—including Class A and Class C stock—or in its predecessor, Google, at all times relevant to the claims alleged in this Derivative Action.

3. I make this verification under penalty of perjury.

DATED: 1-8-19 

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VERIFICATION

Plaintiff Teamsters Local 272 Labor Management Pension Fund ("Local 272"), under penalty of perjury, states as follows:

1. I am the Fund Manager of Local 272, a Plaintiff in this derivative action brought on behalf of Alphabet, Inc., and I have authorized its filing on behalf of Local 272. I have read the foregoing derivative complaint and know the contents thereof. The facts stated therein that relate to Local 272's own acts and deeds are true. As to matters alleged that pertain to the acts and deeds of others, I believe them to be true.

2. Local 272 has held stock in Alphabet—including Class A and Class C stock—or in its predecessor, Google, at all times relevant to the claims alleged in this Derivative Action.

3. I make this verification under penalty of perjury.

DATED: 11/6/2019

